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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1994

Addendum

CANADA

[15 June 1994]

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Introduction

Background

1. Canada ratified the *Convention on the Rights of the Child* on 13 December 1991. In Canada, responsibility for implementing the rights set forth in the *Convention on the Rights of the Child* is shared by the Government of Canada, the provincial governments and, following a delegation of authority by the Parliament of Canada, the territorial governments. Therefore, consultations were conducted with all jurisdictions before ratification took place. Furthermore, all jurisdictions have participated in the preparation of the present report.

Organization of the Report

2. The present report outlines measures adopted before 31 December 1992 by all governments in Canada to implement the Convention, and relevant case law (with occasional references to developments of special interest adopted since that time). Each jurisdiction has either prepared its own portion of the report or extensively reviewed the section which concerns it.

3. Information is also provided, where available, on such other matters as factors and difficulties encountered in implementing Convention rights and priorities and goals for the future regarding them, in accordance with the general guidelines on regarding the form and content of initial reports for the Committee on the Rights of the Child (CRC/C/5). A separate annex provides the statistical information requested in the guidelines.

4. The report is organized in accordance with the guidelines. Thus, articles are grouped under the following eight themes: general measures of implementation (arts. 4, 42 and 44); definition of a child (art. 1); general principles (arts. 2, 3, 6, and 12); civil rights and freedoms (arts. 7, 8, 13 to 17 and 37 (a)); family environment and alternative care (arts. 3, 12, 5, 18 (1) and (2), 9, 10, 27 (4), 20, 21, 11, 19 and 25); basic health and welfare (arts. 6 (2), 23, 24, 18 (3), 26 and 27 (1 to 3)); education, leisure and cultural activities (arts. 28, 29 and 31); special protection measures, including children in situations of emergency (arts. 22 and 38), children in conflict with the law (arts. 37 and 40); children in exploitation (arts. 32 to 36); recovery and reintegration (art. 39); and children in minorities and indigenous children (art. 30).

5. Throughout the report, references to Aboriginal children include children with Indian status under the *Indian Act*, non-status Indian children, and Métis and Inuit children. The phrase "Aboriginal children" is used rather than "indigenous children", because the Constitution of Canada refers to the Aboriginal peoples of Canada.

Consultations with non-governmental and Aboriginal organizations

6. In 1993, the Government of Canada conducted consultations with the Canadian Coalition for the Rights of Children regarding the preparation of the federal portion of Canada's initial report. The Canadian Coalition for the Rights of Children is an umbrella group consisting of more than 45 non-governmental organizations with domestic and international

perspectives on children's issues, which has an ongoing interest in raising awareness of the Convention within its constituency.

7. The Government of Canada met with national Aboriginal organizations and a further consultation session was attended by the Assembly of First Nations, the Native Women's Association of Canada, the Native Council of Canada and the Métis National Council.

8. The Government of Canada has, to the extent possible, made use of Aboriginal and non-governmental input in the "Factors, Difficulties and Progress" and "Priorities and Goals" portions of the report. Furthermore, the submissions of Aboriginal and non-governmental organizations have been distributed to more than 40 federal governmental departments and agencies, for their consideration in future policy formulation.

A vision for the future

9. In September 1990, at the World Summit for Children held at the United Nations, 71 world leaders spoke of actions to better the lives of children in countries throughout the world.

10. Canada's active involvement in the World Summit for Children and the development of the United Nations *Convention on the Rights of the Child* served as a catalyst for increased federal efforts on behalf of children in Canada and around the world.

11. In the past few years, children became more prominent in Canadian society in terms of issues being raised to meet their needs for protection, prosperity, equality and tolerance. The present report comes at a time when, even though the country's material and financial resources are becoming scarcer, the House of Commons has seen the passing of all-party resolutions to support the allocation of significant resources towards children.

12. The growing body of research on child development has also contributed to changing the focus of Canadian social policy for children from one of attempting to solve problems once they have disrupted a child's life to one of anticipating and preventing them through timely intervention.

13. In recent years Canada has taken a series of steps toward achieving a better tomorrow for Canada's children. The first step was taken in December 1991, with the ratification of the United Nations *Convention on the Rights of the Child*. The Convention provides us with a set of standards that confirms the respect that our society gives its youngest and most vulnerable members.

14. The second step, the *Child Tax Benefit*, was announced in the February 1992 budget and came into effect in January 1993. The *Child Tax Benefit* consolidates Family Allowances, the refundable Child Tax Credit and the non-refundable Dependent Child Tax Credit into a single monthly payment. It includes an additional amount for low-income working families, builds on existing federal programmes for children and families, and complements the role of provincial and territorial governments and other organizations. The *Child Tax Benefit* represents an increase of $2.1 billion in federal government support for children and families over the next five years.

15. Third, Canada tabled its Action Plan for Children, entitled Brighter Futures, in May of 1992. Brighter Futures is a multi-departmental initiative that includes over 30 different steps and programmes to address the well-being of children, particularly young children at risk and their families. Through it, the Government of Canada calls on all sectors - families, other governments, non-governmental organizations, business, labour and others - to join these efforts to meet the challenges that our children and families will face in the years to come. The Government of Canada also created the Children's Bureau to coordinate this very comprehensive programme.

16. Finally, the Child Development Initiative was introduced in May 1992 as part of the follow-up to Brighter Futures. This initiative is a group of long-term programmes designed to address conditions of risk during the earliest years in a child's life. The programmes operate on four guiding principles: prevention, promotion, protection and partnership.

17. The Prevention Component of the Child Development Initiative is intended to obtain better information on causes of childhood illness, injury and death.

18. The Promotion Programmes are designed to improve the health and well-being of children by providing information on the care and nurturing of children and by promoting the value of children and parenting to society as a whole.

19. The Protection Programme complements existing federal initiatives to protect children from threats to their well-being. Examples of these initiatives include helping other governments develop more effective methods of ensuring that family support payments are upheld, expanding the Missing Children's Registry, and proposing amendments to the *Criminal Code* with respect to child pornography. Bill C-128, an *Act to amend the Criminal Code and Customs Tariff* (child pornography and corrupting morals) was proclaimed in force in August 1993. Bill C-128 protects children from pornography, sexual exploitation and harm.

20. The Partnership Programme includes two major components. The Community Action Programme funds programmes and projects that benefit children in high-risk communities across Canada, and the First Nations and Inuit Communities Programme focuses on community mental health and child development and the prevention of solvent abuse among Aboriginal children.

21. Canada values its children and is directing its efforts particularly towards alleviating conditions of risk, which one in five Canadian children now face, and which have particularly unfortunate results: poor school performance, low self-esteem, developmental disabilities, involvement with the criminal justice system and chronic unemployment.

22. By developing national child and youth health goals through discussion and consensus-building, many partners can create a common vision of what makes children and youth healthy. Child and youth health goals will help guide integrated programme and policy planning and will focus public and professional awareness on child and youth health challenges.

23. The present Convention provides useful guidance to parents, non-governmental organizations and governments about the appropriate standards

to ensure that Canadian children grow up in an environment conducive to the full and harmonious development of their personalities, and are fully prepared to live an individual life in a free and democratic society, as envisioned in the preamble to the present Convention.

General measures of implementation

24. At a federal-provincial-territorial Conference on Human Rights held in December 1975, the federal and provincial governments reached an agreement on procedures and mechanisms for implementing international human rights instruments to which Canada is a party, and set up a federal-provincial-territorial Continuing Committee of Officials on Human Rights. The Committee meets twice a year and studies particular questions concerning the implementation of human rights instruments. This body has proven to be an effective instrument of liaison and exchange among the federal, provincial and territorial governments on international human rights issues.

25. The Continuing Committee facilitates the preparation of reports to United Nations Committees on the implementation in Canada of its international human rights obligations. The Continuing Committee encourages research on human rights conventions that Canada has ratified, to assist in the understanding of its obligations under them.

26. As with other human rights instruments, the Continuing Committee will keep provincial and territorial governments apprised of any comments that the Committee on the Rights of the Child may make on the scope of the rights guaranteed by the present Convention.

Part One

MEASURES ADOPTED BY THE GOVERNMENT OF CANADA

I. GENERAL MEASURES OF IMPLEMENTATION

A. Implementation by States: article 4

1. Measures in force

27. The Government of Canada has taken measures of a constitutional, legislative, administrative and other nature to implement the rights set forth in the *Convention on the Rights of the Child*. In regard to constitutional measures, the *Canadian Charter of Rights and Freedoms*, which applies to all governments in Canada, assists in protecting many of the rights set forth in the present Convention. Canada has also ratified a number of international instruments which contribute to implementation of the Convention in Canada. More detailed information on the Charter and relevant international conventions is provided under specific articles.

28. International human rights conventions that Canada has ratified do not automatically become part of the domestic law of Canada so as to enable individuals to go to court when they are breached. Canadian courts, however, frequently refer to them in interpreting and applying domestic law, and in particular the *Canadian Charter of Rights and Freedoms*. It is expected that the present Convention will be taken into account in determining the ambit of children's rights in Canada, whether found in the Charter, the common law or relevant legislation.

2. Institutions and mechanisms

29. In 1991 the Minister of Health and Welfare Canada announced the creation of the Children's Bureau. The main function of the Children's Bureau is to enable the Government of Canada to keep a close watch on children's issues and to follow up on the commitments made by the Prime Minister at the World Summit for Children in 1990. The Children's Bureau ensures consistency and coordination for all federal programmes and policies for children.

30. In 1992 the Government of Canada published Brighter Futures: Canada's Action Plan for Children, which is its response to the World Summit for Children. The Action Plan calls on all sectors of society – business, labour, communities, other governments, non-government organizations, families and individuals – to work together to improve the lives of children. It supports a broad range of initiatives focused on preventing problems and difficulties of children, particularly for those up to 8 years of age, and involves an allocation of $459 million over five years.

3. Factors, difficulties and progress

31. The federal nature of Canada is a complicating factor in implementing the *Convention* in Canada, particularly in circumstances where the exact division of responsibilities between federal, provincial and territorial governments over matters affecting children may involve an element of uncertainty. This is certainly the case in areas involving Aboriginal children, as expressed at

the consultations which the Government of Canada conducted with Aboriginal groups as part of the preparation of the present report.

32. In 1993 the Federal-Provincial-Territorial Working Group on the Mental Health of Children and Youth published a report entitled Building for the Future: A Framework for Mental Health Services for Children in Canada, which recognizes that "children and youth are entitled to first call on society's resources".

B. Dissemination of the Convention: article 42

33. In 1992 the Government of Canada provided funding to the Human Rights Directorate of Multiculturalism and Citizenship Canada to promote the *Convention on the Rights of the Child*, to increase public awareness of and support for children's issues and to facilitate public participation in children's rights initiatives.

34. The Human Rights Directorate is working with institutions such as schools, health care and youth programmes, human rights commissions, non-government organizations as well as other federal departments to develop and implement a national strategy to increase public awareness and understanding of the Convention, with a view to changing attitudes regarding children's rights and making the Convention an integral part of Canadian life.

35. The Government of Canada hopes that this national strategy will contribute to increased participation in decision-making by youth, develop partnerships for initiatives which promote public awareness, understanding and implementation of the principles of the Convention, and provide a framework for evaluating projects and determining future plans of action. It will be carried out in a manner reflecting Canada's Aboriginal, multicultural and linguistic diversity.

36. The Human Rights Directorate provides financial assistance to non-governmental organizations to develop educational initiatives relating to the Convention. The Open Learning Agency, of British Columbia, has prepared curriculum materials in the form of videos and newspaper articles for national distribution by and for children. The Canadian Rights and Liberties Association and Save the Children International—Canada produced posters and booklets on the Convention for children.

37. Several federal departments collaborated in the production and launching of the National Film Board's "Rights From the Heart", an animated film series for children about their rights, which is based on the Convention.

38. Health and Welfare Canada has established the Partners for Children Fund which will select projects to be undertaken by non-governmental organizations wishing to work internationally in support of children. Promotion of the Convention is one of the priority themes guiding the selection. Funding for this programme is $16 million over four years.

C. Dissemination of reports: article 44

39. As with all of Canada's reports to the United Nations, Canada's initial report on the *Convention on the Rights of the Child* will be published in both

official languages and distributed domestically. Copies will be provided to provincial and territorial authorities and human rights commissions, civil liberties associations and periodicals, a wide variety of non-governmental organizations concerned with children's issues, public libraries and educational institutions, and to other regular subscribers of government publications. The report will also be included in the catalogue of Canadian government publications available to the public free of charge upon request. Non-governmental and Aboriginal organizations will be at liberty to reproduce and distribute copies of the report or portions of it for their own educational purposes.

II. DEFINITION OF A CHILD: ARTICLE 1

40. In federal law there is no general age of majority which applies in all contexts. Rather, each law sets age limits which are appropriate for its purposes. The following are the principal relevant age limits in federal legislation pertaining to children.

41. Pursuant to section 50 of the *Canada Elections Act*, persons who have attained the age of 18 years may vote in federal elections.

42. Pursuant to the *Canada Evidence Act*, when a proposed witness is under the age of 14 years, the court conducts an inquiry to assess whether he or she may give evidence. If the child understands the nature of the oath or a solemn affirmation and is able to communicate evidence, then he or she may testify under oath or solemn affirmation. If the child does not understand the oath or affirmation but is able to communicate evidence, he or she may give evidence upon promising to tell the truth.

43. Employment of persons under 17 years of age is subject to special regulation pursuant to the *Canada Labour Code* to ensure that it does not interfere with their education and is not harmful to them.

44. The *Canada Pension Plan* provides for benefits to the children of disabled or deceased contributors who are 18 years of age or less, or between the ages of 18 and 25 if the child is in full-time attendance at a school or university.

45. According to the *Criminal Code* it is a criminal offence to have sex with someone under the age of 14 years, with an exception where the younger partner is at least 12 years of age, where the age difference between the two partners is less than two years, and where the older youth is not in a position of trust or authority over the younger, nor is the latter his or her dependant.

46. For purposes of the *Divorce Act*, which contains provisions for the making of custody, access and support orders regarding children of the marriage, they are defined as persons under the age of 16 years or who are unable by reason of illness, disability or other cause to withdraw from their parents' charge or obtain necessities of life.

47. The Immigration Regulations define "son" and "daughter" for immigration purposes as a son or daughter under the age of 19 years.

48. There are various income tax benefits and deductions available to persons regarding their dependants. Persons under the age of 18 years are included in the definition of dependant persons in the *Income Tax Act*.

49. Pursuant to the section 6.01 of the Queen's Regulations and Orders for the Canadian Forces, enacted under the *National Defence Act*, persons must be at least 17 years of age to enrol in the Canadian Forces, and, where they are 17 years of age, have obtained parental consent. The following are the exceptions to the above minimum age requirement (where parental consent has been given):

(a) Persons under 17 years of age may enrol as Officer Cadets;

(b) Persons who are 16 years of age may enrol in the Reserve Force;

(c) Persons who are 16 years of age may enrol as apprentices in the Regular Force, except in times of emergency or for overseas service other than in training ships in non-operational waters.

50. The *Tobacco Restraint Act* prohibits the sale of tobacco to persons under the age of 16 years. This age limit is in the process of being raised to 18 years through new legislation, the *Tobacco Sales to Young Persons Act*, which was enacted in 1993 and is expected to come into force in 1994.

51. Pursuant to the *Young Offenders Act* a child is a person who is or, in the absence of evidence to the contrary, appears to be under the age of 12 years; and a young person or adolescent is a person who is or, in the absence of evidence to the contrary, appears to be 12 years of age or more but under 18 years of age. Children cannot be charged with an offence under the *Young Offenders Act*, and young persons are dealt with under its provisions rather than under the *Criminal Code*, subject to the following exception: a person who is 14 years of age or older and accused of an indictable offence may be transferred to an adult court and dealt with under the *Criminal Code*.

52. Young persons who are convicted under the *Young Offenders Act* (that is, who are 12 years of age or more) may be held in custody in a juvenile facility, and those convicted under the *Criminal Code* (that is, who are 14 years of age or more) may be sentenced to imprisonment.

III. GENERAL PRINCIPLES

A. Non-discrimination: article 2

1. Measures in force

(a) Paragraph 1 (non-discrimination and jurisdiction)

Canadian Human Rights Act

53. The *Canadian Human Rights Act* prohibits discrimination at the federal level in employment and the provision of goods and services on the basis of race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability or conviction for an offence for which a pardon has

been granted. The Act applies to children as well as adults. In Haig v. the Queen the Court of Appeal for Ontario ordered the Government of Canada to treat the Act as including the ground of sexual orientation.

Canadian Charter of Rights and Freedoms

54. Section 15 of the *Canadian Charter of Rights and Freedoms*, which is part of the Constitution of Canada, guarantees every individual the right to equality in the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. The *Charter* applies to children as well as adults. Pursuant to section 1 of the *Charter*, rights and freedoms covered by the *Charter*, including the right to equality in section 15, are subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

55. Section 15 has been interpreted to preclude discrimination against individuals on the basis of personal characteristics that are analogous to the prohibited grounds of discrimination enumerated in section 15 (Law Society of British Columbia v. Andrews). In particular, an individual may be entitled to the protection of section 15 if he or she belongs to a disadvantaged group that bears such indicia of discrimination as stereotyping or prejudice. In Andrews the Supreme Court of Canada held that distinctions based on citizenship are subject to review pursuant to section 15. There are also some lower court decisions indicating that section 15 precludes discrimination based on illegitimacy (Milne and Milne v. A.G. Alberta; M.(L.M.S.) v. A.G. Alberta).

56. In R v. Hess the Supreme Court of Canada held that section 146 (1) of the *Criminal Code*, which makes it an offence for a male person to have sexual intercourse with a female person under the age of 14 years, does not involve discrimination based on sex contrary to section 15 of the Charter. Wilson J. stated that the offence involves an act that as a matter of biological fact only men are capable of committing, and McLachlin J. emphasized the importance of protecting young girls from sexual abuse and unwanted pregnancy.

57. In R. v. S.(S.) the Supreme Court of Canada held that section 15 was not violated by a provision of the *Young Offenders Act* which gave the provinces a discretion as to whether to establish alternative measures programmes (instead of judicial proceedings) for young persons alleged to have committed criminal offences. The Court stated that differential application of federal law can be a legitimate means of forwarding the values of a federal system.

58. Certain rights in the *Canadian Charter of Rights and Freedoms* (electoral rights in section 3, mobility rights in section 6 and minority educational rights in section 23) are guaranteed only to Canadian citizens. For the most part, however, rights are guaranteed to "everyone", "every individual" or "anyone", so that they pertain to all persons within Canada, including claimants for refugee status (Singh et al. v. Minister of Employment and Immigration).

General

59. The Race Relations and Cross-Cultural Understanding Programme of Multiculturalism and Citizenship Canada supports activities that promote racial and cultural tolerance and understanding amongst Canadians. Some projects facilitate institutional change. Others support public education about racism. For example, the Programme supported a school board in Nova Scotia in developing a comprehensive five-year strategy to address race relations issues at every level of school operations. Teachers, students, parents and administrators were all involved in the development of this plan, which provides a model for other school boards in Canada. The Programme also conducts an annual anti-racism public education campaign, in partnership with the Canadian Association of Broadcasters. More than 15,000 schools participated in activities promoted through the 1992 campaign. Private radio and television broadcasters contributed more than $10 million in airtime for the anti-racism public service announcements.

60. Multiculturalism and Citizenship Canada has a Community Support and Participation Programme which supports community-based organizations in dealing with racism, including in the school system.

(b) Paragraph 2 (non-discrimination - parents)

Canadian Human Rights Act

61. Family status is included as a prohibited ground of discrimination in the *Canadian Human Rights Act*. Therefore children who suffer discrimination on the basis of their family status could make a complaint under the Act.

62. Other prohibited grounds of discrimination in human rights legislation may also assist in protecting against discrimination on the basis of family relationship. For example, in Brossard (Town) v. Quebec (Commission des droits de la personne) the Supreme Court of Canada held that a municipal hiring policy disqualifying members of the immediate family of municipal employees from being hired by the town involved discrimination on the basis of civil status contrary to the *Quebec Charter of Human Rights and Freedoms*.

Canadian Charter of Rights and Freedoms

63. The Supreme Court of Canada has not yet considered the question of whether section 15 of the Charter precludes discrimination on the basis of family relationship. Lower court decisions indicate that this will depend on whether the group affected is disadvantaged and whether the distinction in treatment is discriminatory (Leroux v. Co-Operators General Insurance Co.).

2. Factors, difficulties and progress

64. In regard to Aboriginal children, the Aboriginal consultations on implementation of the *Convention* in Canada, conducted in the course of preparing the present report, identified as areas of special concern the treatment of Aboriginal children in the criminal justice and educational systems. Concerns were also expressed about the different treatment of Aboriginal children without Indian status from those with such status.

3. Priorities and goals

65. The Government of Canada recognizes that there is a greater need to ensure the full realization of *Convention* rights for poor children and Aboriginal children. Other groups of children in Canada who may not always fully enjoy their *Convention* rights as a practical matter are those belonging to visible minorities or living in rural or remote communities.

B. Best interests of the child: article 3

1. Measures in force

66. For the most part determinations affecting children are made pursuant to provincial or territorial child welfare or family law legislation. In terms of federal law, according to section 16 (8) of the *Divorce Act*, in making orders regarding the custody of children or access to them, "the court shall take into account only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child". Subsection 11 (b) provides that in a divorce proceeding, "it is the duty of the court to satisfy itself that reasonable arrangements have been made for the support of any children of the marriage and, if such arrangements have not been made, to stay the granting of the divorce until such arrangements are made".

67. In D.P. v. C.S., which concerned a father who, having visiting rights but not custody, claimed the right to have his daughter participate in his religious activities as a Jehovah's Witness, the Supreme Court of Canada referred to article 3 of the present *Convention* to conclude that the principle of "best interests" in the *Divorce Act* was not void for constitutional vagueness.

68. The Declaration of Principle in the *Young Offenders Act* states in section 3 (c) that "young persons who commit offenses require supervision, discipline and control, but, because of their state of dependency and level of development and maturity, they also have special needs and require guidance and assistance".

2. Measures foreseen

69. As indicated in paragraph 310 below, the *Immigration Act* and the regulations enacted pursuant to it were amended in 1992 to increase protection for prospective immigrants, including children. Further amendments to the regulations are being considered to improve the safeguard of the best interests of the child.

3. Factors, difficulties and progress

70. Aboriginal communities have expressed concern that current adoption and alternative care practices are not consistent with the best interests of children, in those situations involving the placement of Aboriginal children with non-Aboriginal parents. See also paragraph 86.

C. The right to life, survival and development: article 6

1. Measures in force

Canadian Charter of Rights and Freedoms

71. Section 7 of the *Canadian Charter of Rights and Freedoms* guarantees everyone the right to life, liberty and security of the person, and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

72. Although the issue has not expressly been decided by the Supreme Court of Canada, it is doubtful that section 7 will be held to apply to children before birth. In Morgentaler v. the Queen the Supreme Court of Canada held that the therapeutic abortion provisions of the *Criminal Code* violated section 7, because they resulted in delays in obtaining abortions and unequal access to them. There is currently no legislation in Canada making abortion a criminal offence, nor is any such legislation contemplated at this time.

73. There are several lower court cases holding that where the exercise of Charter rights of parents would threaten the life of their children, limitations are justifiable within the terms of section 1 of the Charter. For example, it has been consistently held that freedom of religion of parents does not extend to denying their children necessary blood transfusions (B.(R.) v. Children's Aid Society of Metropolitan Toronto).

Criminal Code

74. Section 215 of the *Criminal Code* provides that it is an indictable offence punishable by up to two years punishment for a parent, foster parent, guardian or head of a family not to provide necessaries of life for a child under the age of 16 years.

75. Section 218 of the *Criminal Code* provides that everyone who unlawfully abandons or exposes a child under the age of 10 years, so that his or her life is or is likely to be endangered, or health permanently injured, is guilty of an indictable offence punishable by up to two years' imprisonment.

D. Respect for views of the child: article 12

1. Measures in force

76. See paragraph 66 above on jurisdiction in Canada over matters affecting children. In regard to relevant federal legislation, the Declaration of Principle in section 3 (e) of the *Young Offenders Act* recognizes that young persons have the rights guaranteed in the Charter, and in particular a right to be heard in processes affecting them. Section 11 (e) of the *Canadian Charter of Rights and Freedoms* guarantees every person charged with an offence the right to a fair and public hearing.

77. The *Divorce Act* does not specifically provide children with the right to express their views in custody proceedings. However, as a matter of practise children's views are often expressed through the evidence of a social worker, psychologist or psychiatrist. A meeting between the child and the judge in

chambers may take place. Some provincial jurisdictions provide for legal counsel to represent children in court by way of a guardian *ad litem* or an *amicus curiae*.

78. Pursuant to section 29 (4) of the *Immigration Act*, when an inquiry is held by an adjudicator regarding the removal of a person under the age of 18 years from Canada, he or she may be represented by a parent or guardian. Pursuant to section 69 (4) of the *Act*, in proceedings before the Refugee Division regarding claims to refugee status of persons under the age of 18 years, the Division designates someone to represent them.

79. In Re M.(R.A.) v. Children's Aid Society of Winnipeg the Manitoba Court of Appeal held that a 12-year-old boy had the right to a hearing pursuant to section 7 of the *Canadian Charter of Rights and Freedoms* (see para. 71) in an application to have him made a permanent ward of the Children's Aid Society. Matas J. noted that in Canada "[t]he question of child representation in the courts has been receiving greater attention in the last several years by social scientists and the legal profession" (p. 747).

2. Factors, difficulties and progress

80. The Government of Canada recognizes the importance of the perspective of children being brought to bear in all policy decisions affecting them, and regards the creation of the Children's Bureau at Health and Welfare Canada in 1991 as an important step towards achieving this goal.

81. In the view of the Government of Canada there may be a distinction between administrative or judicial decisions that directly affect the child and those which do so only indirectly. Furthermore, the implementation of article 12 in areas other than family law, such as immigration, is expected to be a gradual one in Canada. In the area of family law, increased participation of children in custody proceedings, and in particular the matter of independent legal representation of children in court, raise a number of concerns, including considerations of cost, concerns about a child's ability to instruct counsel and possible damaging effects of asking a child to choose between parents.

3. Priorities and goals

82. The Government of Canada recognizes the very significant effect on children of custody and access orders pursuant to the *Divorce Act*, and is currently reviewing it with a view to determining whether measures could be taken which would better implement article 12 of the Convention.

IV. CIVIL RIGHTS AND FREEDOMS

A. The right to a name, nationality and parental care: article 7

1. Measures in force

Nationality

83. Pursuant to section 3 of the *Citizenship Act* every child born in Canada is a Canadian citizen. Children born outside Canada are citizens of Canada if

one of their parents, other than an adoptive parent, is a citizen. A parent who has acquired Canadian citizenship subsequent to the birth of the child may obtain citizenship for the child, if the child is a permanent resident of Canada. See also paragraphs. 163 and 164.

Parental care

84. The Framework of Action in Brighter Futures: Canada's Action Plan for Children includes "support[ing] parents as our children's primary care givers" (see para. 30).

85. The Declaration of Principle in the *Young Offenders Act* recognizes in section 3 (1) (h) that "parents have responsibility for the care and supervision of their children, and, for that reason, young persons should be removed from parental supervision either partly or entirely only when measures that provide for continuing parental supervision are inappropriate".

2. Factors, difficulties and progress

86. In regard to Aboriginal children, currently there are 44 First Nations Child and Family Service (FNCFS) Agencies which provide services to 218 Indian bands (out of a total of over 600 bands) in Canada. Until the early 1980s, child and family services were provided to Indians primarily by provincial and territorial jurisdictions. This earlier approach was less conducive to ensuring that Aboriginal children retained their cultural identity and remained in their parents' care.

3. Priorities and goals

87. In regard to Aboriginal children, the Government of Canada has approved the creation of additional FNCFS Agencies with a view to ensuring that all Indian children and families receive appropriate services within their Aboriginal community. In 1991 a new draft directive on their creation was distributed for comment to Aboriginal groups, and it will continue to be amended from time to time to accommodate their views. In the next two to three years it is expected that another 32 FNCFS agencies serving 183 bands will become operational, with the result that two thirds of all bands will receive services from FNCFS agencies.

B. Preservation of identity: article 8

Measures in force

88. Aboriginal children may be adopted through the mechanisms provided by provincial and territorial jurisdictions. For status Indian children, these adoptions are reported on a confidential basis to the Indian Registrar for purposes of the Indian registry. A separate list by band of children who have been adopted by either Indian or non-Indians is maintained. Upon request, normally when the child has reached 18 years of age, information will be given to him or her regarding band membership, and a certificate of Indian status provided. As well, some Aboriginal communities practise custom adoption.

89. According to sections 16 (10) and 17 (9) of the *Divorce Act*, in making or varying custody and access orders the court "shall give effect to the

principle that a child of the marriage should have as much contact with each parent as is consistent with the best interests of the child".

C. Freedom of expression: article 13

Measures in force

90. Section 2 (b) of the *Canadian Charter of Rights and Freedoms* guarantees every individual the right to freedom of expression. It has been interpreted to protect all activities which convey a meaning (except violent communications) (Irwin Toy Ltd. v. A.G. Quebec). It may in certain contexts include a right to information (International Fund for Animal Welfare et al.v. the Queen). As with other *Charter* rights, it is subject to limitations in accordance with section 1 of the *Charter*. See also paragraph 325.

91. The *Access to Information Act* and Extension Order No. 1 pursuant to it provide all individuals present in Canada, including children, with access to any record under the control of a government institution.

D. Access to appropriate information: article 17

1. Measures in force

(a) Paragraph (a) (mass media)

92. Section 3 of the *Broadcasting Act* establishes the broadcasting policy for Canada. It expressly provides that the Canadian broadcasting system (which includes public and private broadcasters) should serve the needs and interests of Canadian children (section 3 (d)), and provide programming for children of all ages (section 3 (i) (i)), including educational programmes (section 3 (i) (iii)).

93. The Canadian Broadcasting Corporation (CBC) is the national public broadcaster in Canada. A condition of the television licence of CBC is that it "maintain a fair and balanced proportion of the programming schedule ... for children and youth". CBC programming for this purpose is divided into children, youth and family categories. The primary purpose of the children's category is to aid children in their development, and of the youth category to respond to the needs of older children to obtain information, share concerns, and address social issues in an entertaining and informative manner. Family programming affirms the importance of the family in the life of children and society.

94. Telefilm Canada is a federal cultural agency with a mandate to foster and promote the development of the feature film and television industries in Canada. Since 1983, it has provided financial support for 140 programmes for children, including such award-winning series as Anne of Green Gables and Degrassi (a series for and about children in junior high school and high school).

95. The National Film Board (NFB) is a federal cultural agency that produces and distributes films that are to "interpret Canada to Canadians and other nations". Extensive use of NFB films is made in the schools. During 1991-1992 the NFB produced or researched over 100 films for younger children

and over 60 films for older children. In addition, the Women's Film Programme of the NFB has produced films designed to empower and support women in their role as care-givers of children.

96. The *Income Tax Act* provides for a Capital Cost Allowance for investors in Canadian film and videotape productions. During 1991-1992, 15 children's productions with budgets totalling $35.6 million benefited from the Capital Cost Allowance. An example is Alligator Pie, a one hour television special based on children's poems by the Canadian author Dennis Lee.

(b) Paragraph (b) (international cooperation)

97. Canada has signed 23 film and television co-production agreements with other States. Canadian children's programming is made available in other countries by a variety of means, including Telefilm Canada's offices in Paris, London and Los Angeles. The Canadian Commission for UNESCO is a liaison agency which coordinates the UNESCO programme in Canada and advises the Government of Canada on its relations with UNESCO. As part of its programme in support of the World Decade for Cultural Development, the Canadian Commission for UNESCO has officially recognized or provided assistance for several cultural initiatives for children.

(c) Paragraph (c) (dissemination of books)

98. The Government of Canada provides support for the publishing industry. For example, in 1991-1992 the Book Publishing Industry Development Programme of the Department of Communications provided over $3.2 million for educational publishing, and $1.5 million for other publishing, including of children's books. It also provides financial assistance to Canadian publishers to support their Canadian publishing programme.

99. The Canada Council administers literary awards which are presented each year by the Governor General to the authors and illustrators of the best English-language and French-language children's literature. It also provides annual grants toward the publication and promotion of children's periodicals in Canada and the annual National Book Festival.

100. The National Library of Canada has an annual promotional campaign called "Read Up On It", which involves sending information kits to 16,000 elementary schools in Canada. It publishes Notable Canadian Children's Books, which contains extensive annotations and indexes on children's literature. The Children's Literature Service of the National Library has a separate collection of books for children aged 16 years and under, including a reference and consultation service.

(d) Paragraph (d) (linguistic needs of minority and indigenous children)

101. According to section 3 (o) of the *Broadcasting Act*, all broadcasters in Canada should provide programming that reflects the Aboriginal cultures of Canada as resources become available. According to section 3 (t), distribution undertakings may, where the Canadian Radio-Television and Telecommunications Commission (CRTC) considers appropriate, originate programming for under-served linguistic and cultural minority communities.

102. In regard to the CBC, the *Broadcasting Act* states that its programming should reflect Canada and its regions (section 3 (m) (ii)), be in English and in French and reflect the different needs and circumstances of the two official language communities (section 3 (m) (iv)), and reflect the multicultural and multiracial nature of Canada (section 3 (m) (viii)).

103. The CRTC supervises and regulates all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in the *Broadcasting Act*. It requires stations to report on current practises and plans to broadcast ethnic programmes. In 1990 the CRTC adopted a Native Broadcasting Policy on the importance of native programming in fostering the development of Aboriginal cultures and, where possible, the preservation of native languages.

(e) Paragraph (e) (protective guidelines)

General

104. The CRTC requires broadcasters to adhere to regulations concerning advertising of alcoholic beverages; abusive comment or pictorial representations likely to result in hatred or contempt based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability which might have a harmful effect on children; and obscene or profane language or pictorial representations. Adherence to the Broadcast Code for Advertising for Children is a condition for obtaining a broadcast licence.

105. The Canadian Association of Broadcasters, the umbrella group representing the majority of Canadian private broadcasters, has a voluntary code regarding violence in television programming. The CBC also adheres to internal guidelines on this subject. The CRTC has recently published two studies dealing with the possible harmful effects of television violence.

Charter cases

106. In Irwin Toy, the Supreme Court of Canada held that provincial legislation prohibiting commercial advertising directed at persons under the age of 13 years involved a *prima facie* infringement of section 2 (b) (freedom of expression) of the Charter, but was justifiable within the terms of section 1 because it served the important purpose of protecting a vulnerable group from commercial manipulation.

107. In R. v. Butler, the Supreme Court of Canada held that the prohibition of obscenity in the *Criminal Code* involved a *prima facie* infringement of section 2 (b) of the Charter, but was justifiable because of its purpose of protecting vulnerable groups in society such as women and children.

2. Factors, difficulties and progress

108. Canadians are becoming increasingly concerned about the relation between violence on television and violence in society. In 1992, a 14-year-old girl whose sister had been robbed, raped and murdered, obtained the signatures of 1.3 million Canadians to a petition calling for legislation that would gradually eliminate violence on television within 10 years. Considerable progress has been made in addressing the problem of violence in the media.

In 1993, the Action Group on Violence in Television, which includes broadcasters, cable distributors, pay television and specialty programming services, advertisers and producers, announced a General Statement of Principles to be adhered to by all industry sectors as they strengthen their codes on television violence. The Canadian Association of Broadcasters was the first to have their revised code accepted by the Canadian Radio-Television and Telecommunications Commission.

3. Priorities and goals

109. In order to deal with media violence and its contribution to the broader problem of violence in society, the twin goals of the Government of Canada are to reduce media violence through voluntary industry action and to use the media as a positive force to develop long-term attitudinal change, reducing the public's tolerance of aggressive behaviour and violent programming. Measures to achieve these goals will include:

(a) A public service announcement campaign;

(b) A national television classification system to assist viewers in making informed choices about television viewing;

(c) The strengthening of industry codes on violence in television programming; encouraging the production and broadcast of alternative, non-violent programming, particularly for children; and

(d) Monitoring international action on this issue, particularly in countries which are major sources of imported programming.

110. National Film Board priorities for 1990-1995 are to develop film programmes by, for and about women, First Nations People, people of colour and children.

E. Freedom of thought, conscience and religion: article 14

1. Measures in force

111. Section 2 (a) of the *Canadian Charter of Rights and Freedoms* guarantees everyone the right to freedom of conscience and religion. In R. v. Big M Drug Mart Ltd. the Supreme Court of Canada stated that "[t]he essence of the concept of religion is the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly ... and the right to manifest religious beliefs by worship and practise or by teaching and dissemination". It characterized freedom of religion as "the absence of coercion and restraint ... including indirect forms of control".

112. At this stage of Charter jurisprudence, cases on the ambit of freedom of religion of children relate, for the most part, to the extent to which they are subject to exposure to religion by their parents or teachers. In several cases the courts have held that section 2 (a) is violated by a requirement that public schools conduct religious exercises or give religious instruction, with a preference shown for the Christian religion (Zylberberg v. Director of Sudbury Board of Education, Canadian Civil Liberties Ass'n et al. v. Ontario). In Zylberberg an exemption was available for objecting students, but the

Ontario Court of Appeal stated that "[t]he peer pressure and the classroom norms to which children are acutely sensitive, in our opinion, are real and pervasive and operate to compel members of religious minorities to conform with majority religious practices" (p. 591).

113. There have been several cases on the extent of the right that parents with visiting rights have to expose their children to their religion, where it differs from that of the parent having custody. In Young v. Young the Supreme Court of Canada held that the application of the best interests principle in the *Divorce Act* to a claim by a parent with visiting rights to involve his children in religious activities did not infringe section 2 (a) (freedom of religion) of the Charter.

114. There have not as yet been many court decisions relating to the exercise by children themselves of their freedom of religion. One lower court decision is Re K. (L.D.), where the Ontario Provincial Court (Family Division) declined to make a declaration that a twelve-year-old child with leukaemia was in need of protection, in circumstances where she and her parents (who were Jehovah's Witnesses) objected to the administration of chemotherapy (which involved blood transfusions) on religious grounds. The Court also held that an earlier blood transfusion administered against her wishes constituted discrimination on the basis of religion contrary to section 15 of the Charter, and an infringement of her right to security of the person under section 7 of the Charter.

2. Factors, difficulties and progress

115. The Government of Canada recognizes that care must be taken to ensure that freedom of religion of the parents is not accepted as a justification for subjecting children to practices that disregard their religious preferences, involve discrimination on the basis of sex or are harmful to their health or involve abuse or violence.

F. Freedom of association and peaceful assembly: article 15

Measures in force

116. Section 2 (c) and (d) of the *Canadian Charter of Rights and Freedoms* provide for a right to peaceful assembly and association. These rights have been interpreted by the courts to apply primarily to public organizations of persons pursuing common goals rather than in the family context (Re Catholic Children's Aid Society). There have not as yet been any cases involving the right of children to form organizations.

G. Protection of privacy: article 16

Measures in force

117. The *Privacy Act* governs the collection, retention, use and disclosure of personal information by federal institutions, including information pertaining to children. Pursuant to section 12 of the Act and its extension orders, individuals present in Canada have a right of access to personal information contained in a federal personal information bank. Pursuant to section 10 of the Privacy Regulations, authorized persons may seek access to a minor's

personal information on his or her behalf. According to sections 7 and 8 of the *Act*, personal information may not be made use of or disclosed without the consent of the persons involved, subject to certain limited exceptions in accordance with the Guidelines of the Organization for Economic Cooperation and Development (OECD).

118. The *Privacy Act* does not apply to personal information held by non-governmental organizations. The Government of Canada is encouraging the private sector to develop its own privacy codes.

119. The Supreme Court of Canada has stated that section 8 (search and seizure) of the *Canadian Charter of Rights and Freedoms* includes "our right to be free from unreasonable invasions of our right to privacy" (R. v. Duarte). Section 7 (right to life, liberty and security of the person) of the Charter has also been interpreted to protect the physical and psychological integrity of the individual (R. v. Morgentaler).

120. In R. v. G.(J.M.) the Ontario Court of Appeal considered a situation involving a school principal who was informed that a 14-year-old student had been seen putting drugs in his socks in the school yard. The principal asked the student to come to his office, and then to remove his socks. After a delay, the principal took some tinfoil from the boy's socks which contained drugs. The student was subsequently convicted under the *Young Offenders Act* of possession of marijuana and fined $25.00. The Ontario Court of Appeal held that, if the Charter applied to school authorities, there was not an unreasonable search and seizure contrary to section 8. In the view of the Court it would not have been appropriate for the principal to have called in the police at this stage of events, nor for him to have done nothing. Rather, the course of action that he chose was "eminently reasonable" (p. 386). Leave to appeal to the Supreme Court of Canada was denied.

H. Right not to be subjected to torture, etc.: article 37 (a)

Measures in force

121. Section 12 of the *Canadian Charter of Rights and Freedoms* provides that everyone has the right not to be subjected to cruel and unusual treatment or punishment. In R. v. Smith the Supreme Court of Canada stated that section 12 would be violated where treatment or punishment was grossly disproportionate to the offence or the offender, and that a relevant consideration was the personal characteristics of the offender. This would include the circumstance being a child or youth.

122. In R. v. McC (T.), the Ontario Court (Provincial Division) stated that "special consideration must be given to the fact that we are dealing with youths and not adults", in concluding that conditions in youth court holding cells contravened section 12 of the Charter. In this case the cells, where youths were held for up to seven hours pending court appearances, were dirty, crowded and hot, and without adequate supervision.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

123. For the most part family law, the regulation of social welfare agencies and the administration of the courts come within provincial and territorial jurisdiction. However, the Government of Canada has jurisdiction over issues of custody and visiting rights to the extent that they arise in the context of divorce, and over immigration, criminal law and Indians and the lands reserved to them, and to this extent has a role to play in regard to family environment and alternative care.

A. Best interests: article 3

1. Measures in force

(a) Paragraph 1 (best interests)

124. See paragraph 66.

(b) Paragraph 2 (protection and care)

125. The *Hazardous Products Act* provides Consumer and Corporate Affairs Canada with the authority to ban or regulate products that present a danger to the health or safety of children. Over the past 20 years, 14 prohibitions and 20 sets of regulations have been developed on children's products. The Product Safety Branch of Consumer and Corporate Affairs Canada regulates and provides information on the safety of toys, children's furnishings, children's clothing, household products, child-resistant closures on chemical products and child-resistant lighters. Consumer and Corporate Affairs Canada has also encouraged the development of voluntary industry standards for children's products.

126. In 1990 the Government of Canada initiated KIDSCARE, a national programme to raise public awareness of accidental injuries and death due to product hazards. This programme was allocated $312,000 in 1992-1993, and raised another $130,000 through sponsorship from the private sector.

127. The Road Safety Directorate of Transport Canada is responsible for the Child Seats and Restraints for Vehicles Programme under the *Motor Vehicle Safety Act*. Although legislation requiring the use of child restraints for children under 20 kg in motor vehicles is a provincial and territorial responsibility, the Government of Canada provides information on child restraint systems, tether anchorages and notices of defective seats.

128. See also paragraph 187 below on the Child Development Initiative and paragraphs 370 and 371 on the Missing Children's Initiative.

(c) Paragraph 3 (standards for institutions, facilities and services)

129. The Government of Canada, in part through its membership on the federal-provincial-territorial advisory committee structure, has provided leadership in the development of guidelines for standards regarding institutional care as they may be adopted or amended by each province. The Guidelines address such topics as distribution of units, bed requirements,

policies for the units or services, staffing and preparatory learning required, supporting services required, space and equipment requirements. Guidelines relating to children include:

(a) Child and Adolescent Services in General Hospitals;

(b) Child and Adolescent Psychiatric Services Provided by General Hospitals; Child and Youth Long-Term Services;

(c) Health Care Related to Abuse, Assault, Neglect and Family Violence; Child Sexual Abuse Guidelines: A Guide for Community Workers; and

(d) National Guidelines for Family-Centred Maternity and Newborn Care.

2. Factors, difficulties and progress

130. Awareness of childhood injury as a major health issue is recent, and models for action have been geared to specific types of injuries and so are not widely applicable. The many individuals and organizations concerned have not traditionally worked together to deal with this problem. While injury is the leading cause of death in children, the rate of death by accident declined among children aged 1 to 4 by 54 per cent from 1971 to 1985. This decline is attributed to many factors, including less drinking by drivers, increased use of child restraints, improvements in the safety of children's products and a growing awareness among children, parents and care-givers of safety issues.

3. Priorities and goals

131. The goals of the Government of Canada are to increase federal collaboration with national organizations to heighten awareness of this major health issue, and to develop, implement and evaluate childhood injury programmes on the basis of Canadian Hospitals Injury Reporting and Prevention Programme data and other routinely collected morbidity and mortality data.

B. Views: article 12

132. See paragraphs 76 to 79.

C. Parental guidance: article 5

133. Section 2 of the *Divorce Act* defines custody to "include care, upbringing and any other incident of custody". See also paragraphs 84 to 85.

D. Parental responsibilities: articles 18 (1) and (2)

1. Measures in force

(a) Paragraph 1 (parental responsibilities)

134. Section 16 (10) of the *Divorce Act* requires that the Court, in making orders pertaining to custody and visiting rights, "give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child". Section 15 (8) states that support orders should recognize that spouses have a joint

financial obligation to maintain the child, and that the obligation should be apportioned on the basis of their financial situation. (Issues of custody and visiting rights arising outside the divorce context are governed by provincial or territorial law).

135. Section 9 (2) of the *Divorce Act* requires legal advisors to discuss with divorcing spouses the advisability of negotiating matters that may be the subject of a support or custody order and to inform the spouses of the mediation facilities known to him or her that might be of assistance.

136. Status of Women Canada is involved in strategies to integrate successfully work and family responsibilities, based on the underlying principle that children (and the home) are not the sole responsibility of the mother. Status of Women is collaborating with Labour Canada on a number of relevant projects, including working towards ratification of Convention 156 of the International Labour Organisation. A joint Federal-Provincial-Territorial Working Group of Status of Women and Labour officials is preparing two papers: the first is on options for improving the integration of work and family responsibilities, to be undertaken by Status of Women officials; and the second is a compilation of best practices and innovative proposals offered by private and public sector employees, to be undertaken by the representatives of the Department of Labour. Labour Canada has established a Workplace Equality Fund, which has, as one of its priorities, projects that address work and family responsibilities.

137. The *Canada Labour Code*, which applies to employees in federally regulated industries, provides for 17 weeks of unpaid maternity leave and 24 weeks of unpaid parental leave, which are available to either parent or may be shared between them. The *Unemployment Insurance Act* provides 15 weeks of maternity benefits and 10 weeks of parental benefits for all employees in Canada who have worked the prescribed number of weeks within the preceding year. The *Canada Labour Code* provides protection against dismissal or lay-off because of pregnancy leave or parental leave. The *Canadian Human Rights Act* prohibits discrimination based on sex (including pregnancy or child birth), marital status or family status. The Supreme Court of Canada has concluded that the prohibition against discrimination on the basis of sex in provincial and territorial human rights legislation precludes discrimination on the basis of pregnancy, even if it is not enumerated as a prohibited ground (Brooks v. Canada Safeway Ltd.)

138. The report of the Federal-Provincial-Territorial Working Group on the Mental Health of Children and Youth entitled Building for the Future: A Framework for Mental Health Services for Children and Youth in Canada recognizes that the family is central to the provision of care, nurturance and support for children and youth, and that it is a priority of the community to strengthen the capacity of families to provide for their children.

139. The Children Mental Health Strategy Programme of Health and Welfare Canada has funded a booklet for parents on ways to help their children to cope with separation and divorce.

(b) Paragraph 2 (assistance to parents)

140. The Nobody's Perfect Programme is a national support and education programme for parents of young children from birth to age 5. It builds on the strengths of parents, facilitates mutual support and provides information on parenting and child development.

141. The Postpartum Parent Support Programme, which is based on the concept of family-centred maternity care, is delivered through hospitals and community health centres in all regions of Canada. The programme responds to the information and support needs of parents and their families during the postpartum period and is designed to increase parental confidence. The Postpartum Programme has received $800,000 in funding since its inception in 1988.

142. "Ready or Not" is a national support and education programme for children 8 to 12 years of age and their parents. Its goal is to promote positive family communication and prevent the use of tobacco, alcohol and other drugs by children.

143. The Military Family Support Programme was established in 1991 to meet the special needs of military families by providing a consistent and coordinated system of family support within the military community. Based on the principles of community organization, it aims to give ownership of the programme to the families and communities it serves. The Canadian Forces have committed up to $16 million per year to funding this ongoing programme.

144. Health and Welfare Canada is working in partnership with the private and non-profit sector to develop a multi-media campaign entitled "Strengthening Families". It is designed to promote positive family communication and to provide information on the healthy growth and development of children.

145. Parents who are immigrants or refugees sometimes need information on Canadian institutions and norms. The Community Support and Participation Programme of Multiculturalism and Citizenship Canada provides information sessions for new Canadians. They include information dealing with schools and the education system, contact with police and access to health services.

2. Priorities and goals

146. The effective integration of work and family responsibilities is a priority for Status of Women Canada and for the Women's Bureau of Labour Canada. The joint Federal-Provincial-Territorial Status of Women and Labour Working Group is drafting a document which will examine the complex nature of the issues and suggest directions for action.

147. The *Canada Labour Code* is being amended to provide for maternity-related reassignment to support a woman's right to remain at work while pregnant. Employers will be required to make every reasonable attempt to modify the job or reassign a pregnant employee when her temporary health needs so require.

E. Separation from parents: article 9

1. Measures in force

148. As indicated earlier, paragraph 134, section 16 (10) of the *Divorce Act* requires the court to give effect to the principle that children of the marriage should have as much contact with both parents as is consistent with their best interests of the child. Section 16 (5) provides that the parent with visiting rights to the child has the right to make inquiries and be given information as to the health, education and welfare of the child. Section 16 (7) authorizes the court to include in an order a requirement that the parent with custody of the child inform the parent with visiting rights if he or she intends to change the place of residence of the child.

2. Factors, difficulties and progress

149. The Department of Justice is reviewing the issues of custody and visiting rights. Current empirical data demonstrate that children are badly affected by the experience of family violence, including witnessing an abusive parental relationship. There may be cases of family violence and abuse where the best interests of the child are not served by direct contact with both parents.

F. Family reunification: article 10

Measures in force

150. Section 3 (c) of the *Immigration Act* includes as one of the objectives of Canadian immigration policy the need "to facilitate the reunion in Canada of Canadian citizens and permanent residents with their close relatives from abroad". "Family" is defined in the Act to mean the father and mother and any child who, by reason of age or disability, is mainly dependent on the mother or father for support (including illegitimate children). The Immigration Regulations define a "dependent son" or a "dependent daughter" to include an unmarried person under the age of 19 years, a person over 19 years who is enrolled full-time as a student and is financially dependent, and a person who as a result of a physical or mental disability is incapable of supporting him- or herself and is financially dependent on the parent.

151. Pursuant to the *Immigration Act*, children of a Canadian citizen or permanent resident may be sponsored by that person without being subjected to the "points system" or selection standards and without the sponsor meeting any financial criteria. They are then admitted to Canada as immigrants, provided medical and security requirements are met. The Minister and the Governor-in-Council may exempt children from these requirements. In order to ensure that the family reunification programme is as humane and expeditious as possible, the Immigration Regulations state that the processing of visas for spouses and dependent children has the highest priority.

152. In some cases, persons who are in Canada without legal status have Canadian-born children who are Canadian citizens. If the parents leave or are removed from Canada and have a dependant child who is a Canadian citizen, the fact of the parents' deportation does not affect the child's status as a Canadian citizen, nor his or her right to remain in Canada. Section 6 (1) of the *Canadian Charter of Rights and Freedoms* prevents the Government of Canada

from denying a Canadian citizen or permanent resident the right to enter, remain in or leave Canada, unless it is justified under section 1 of the Charter.

153. Family reunification is also facilitated by allowing children who are Canadian citizens or permanent residents to leave Canada for the purpose of visiting their parents abroad, and then return to Canada, in accordance with section 6 of the *Canadian Charter of Rights and Freedoms*. If it is not possible for a child to travel to his or her parents' country of residence - for instance because the authorities of that country would not permit such entry - there are general provisions in place which could be used to allow parents to visit their children in Canada.

G. Maintenance: article 27 (4)

1. Measures in force

154. Pursuant to section 15 (5) of the *Divorce Act*, in making a support order the court shall take into account the means and needs of the parties. Pursuant to section 17, a support order may be varied if there has been a change in the condition, means, need or other circumstance of the child or his or her parents.

155. A Family Support Enforcement Fund has been established to ensure that people responsible for providing support to their spouses and children fulfil their obligations. It enables the Government of Canada to facilitate the exchange of information on enforcement matters amongst provincial and territorial governments, and to assist them in developing new remedies and means of enforcement and in raising public awareness of the importance of respecting family support orders.

156. At present there are several reciprocity maintenance order regimes between provincial governments and foreign countries to secure the recovery of maintenance for children.

2. Priorities and goals

157. A Federal-Provincial-Territorial initiative is currently under way which seeks to review the whole question of child support. One of the options for reform being considered is the establishment of Child Support Guidelines.

158. Requests from a certain number of States are now being considered to develop bilateral conventions regarding the recovery of maintenance abroad. The Government of Canada, after further consultations with the provinces, may also consider the possibility of becoming a party to existing multilateral conventions on the matter of recovery of maintenance orders.

H. Alternative care: article 20

159. Provincial and territorial governments have jurisdiction over alternative care for children. For special measures adopted by the Government of Canada regarding Aboriginal children, see paragraphs 86 to 88.

I. Adoption: article 21

1. Measures in force

160. Upon ratification of the present Convention, in consultation with national Aboriginal organizations, Canada entered a reservation to article 21, to ensure that recognition of customary forms of care among Aboriginal peoples in Canada, such as custom adoption, was not precluded by the requirement in article 21 that adoptions be authorized by competent authorities, in accordance with applicable laws and procedures.

161. The National Adoption Desk of Health and Welfare Canada develops new adoption programmes and negotiates arrangements with other countries to ensure that the best interests of the child are safeguarded by requiring that adoptions be arranged by the appropriate authorities in Canada and the sending country. Article 21 of the Convention is identified in illustrative arrangements as providing the "Guiding Principles", with the essential points of article 21 listed. The Child Development Initiative of 1992 (which is described in para. 187) provided resources to the National Adoption Desk to enable it to pursue additional adoption arrangements with other countries. Contact has been made with officials in 12 other countries to explain the role of the Adoption Desk and explore working arrangements.

162. The Immigration Regulations provide for the admission of children adopted abroad and also of children to be adopted in Canada who are under the age of 19 years. Children adopted abroad are treated in the same manner as natural-born children who are dependants. Thus, adopted children over the age of 19 years who are still dependent on the parents are admissible. In order to prevent abuse, adoptions of convenience are not accepted, and a child may not at a later date rescind the adoption in order to sponsor his or her birth parents.

163. In regard to children to be adopted in Canada, they are eligible for sponsorship by a prospective parent who is a Canadian citizen or permanent resident if the child is an orphan, an abandoned child whose parents cannot be identified, or a child who has been placed with a child welfare authority for adoption. In order to protect the interests of the child, the government of the province where the child is to reside must state, in writing, that it has no objection to the proposed arrangements for the reception of the child.

164. In Canada, the involvement of private individuals and organizations in international adoptions is not regulated by federal or provincial law except in the Province of Québec. Consequently, Canadian individuals and organizations that are not regulated by any child welfare authority may establish contact with foreign officials to arrange adoptions for Canadians residing in provinces other than Québec.

2. Factors, difficulties and progress

165. Not all countries contacted by the National Adoption Desk are receptive to an arrangement for the adoption of children through the appropriate authorities for a variety of reasons, including lack of a legislative base or clearly defined authority to oversee international adoptions and identify and

declare children abandoned or available for adoption, and lack of infrastructure and resources to effectively implement procedures.

3. Priorities and goals

166. The National Adoption Desk is giving priority to developing new programmes and improving existing programmes for the adoption of children, through the appropriate authorities in Canada and the sending country.

167. The Government of Canada participated in the development of the *Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* under the auspices of the Hague Conference on Private International Law, and is currently working towards early ratification by Canada of the Convention. The main objectives of the Convention are to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child, to establish a system of interstate cooperation to ensure that those safeguards are respected and to secure the recognition of adoptions made in accordance with the Convention.

J. Illicit transfer: article 11

1. Measures in force

168. The *Criminal Code* contains offences that are relevant to combating the illicit transfer and non-return of children. For example, section 279 (1) of the Code provides for a penalty of life imprisonment for kidnapping where force is used. See also paragraph 377 below.

169. Canada has ratified the *Hague Convention on the Civil Aspects of International Child Abduction*. Implementing legislation has been enacted in all provinces and territories to secure the prompt return of children wrongfully removed or retained and to ensure the respect of parental rights of custody and access. (This Convention also provides for measures to ensure the rights set out in arts. 9 and 10.)

2. Factors, difficulties and progress

170. The Hague Convention has had a deterrent effect on the illicit transfer and non-return of children abroad. However, in several cases, delays and non-voluntary submission have created difficulties. The search for relevant information, e.g. regarding location of the abductor and the abducted children, is sometimes cumbersome. Furthermore, when the abducted child is removed to a State which is not a party to the Hague Convention, intervention through diplomatic channels is not often successful.

3. Priorities and goals

171. The Government of Canada has been actively promoting accession to the Hague child abduction convention by other States, in particular Commonwealth countries. It is seeking ways to improve the efficient application of the Convention domestically as well as internationally. The Government of Canada may also consider ratifying the *Convention on the International Return of Children* of the Organization of American States.

K. Abuse and neglect: article 19

1. Measures in force

172. The *Criminal Code* contains several provisions protecting children and youth from all forms of sexual abuse: sections 151 (sexual interference), 152 (invitation to sexual touching), and 153 (sexual exploitation). Specific offences in the *Criminal Code* concerning parents, guardians and householders are sections 170 (parent or guardian procuring sexual activity), 171 (householder permitting sexual activity) and 172 (corrupting children).

173. In 1984 the Committee on Sexual Offenses Against Children and Youths delivered its report entitled Sexual Offenses Against Children (the Badgley Report) to the Ministers of Justice and Health and Welfare. The response of the Government of Canada included the appointment in 1987 of a Special Advisor on Child Sexual Abuse to the Minister of National Health and Welfare with a mandate to prepare a report on the long-range direction of federal initiatives regarding child sexual abuse, their implementation and coordination. This report, entitled Reaching for Solutions, was published in 1990 and contains a total of 74 recommendations. To date, over 90 per cent of the recommendations directed to the Government of Canada have been implemented in some form.

174. The Family Violence Prevention Division of Health and Welfare Canada coordinates federal activities in the field of family violence. Current activities build upon the 1986 five-year Child Sexual Abuse Initiative and the 1988 Family Violence Initiative. There are presently 32 child abuse or child sexual abuse projects under way across Canada, and 25 completed. The National Clearinghouse on Family Violence of Health and Welfare Canada is a national resource centre and referral service for all Canadians seeking information and solutions to family violence, including child abuse. It is currently developing descriptive inventories of child abuse and child sexual abuse projects funded between 1989 and 1991.

175. In 1991 the Family Violence Initiative was announced, with a budget of $136 million over four years. Its purpose is to reduce the incidence of all forms of child abuse through various prevention strategies, including raising awareness, mobilizing communities and changing attitudes. It will also explore innovative models of intervention and treatment for abusive and neglectful families. With respect to reducing child sexual abuse, activities include evaluation of existing treatment models and the consideration of alternatives, assessing available training and information coordination, and developing community prevention programmes and strategies to prevent child abuse. In addition to numerous information, training and evaluation projects, Health and Welfare Canada is conducting research on child abuse (including neglect and physical, emotional or sexual abuse). Research results will be widely distributed in Canada.

176. The Aboriginal Initiative to combat violence on Indian reserves reflects the recognition on the part of the Government of Canada of the seriousness of the problem in Aboriginal communities and involves an allocation of $36 million over four years.

177. As a component of the Family Violence Initiative, Canada Mortgage and Housing Corporation (CMHC) provides capital funding to non-profit or

charitable community groups and Indian Bands for the development of hostel-style living units where abused women and their children can stay on an emergency basis (the Project Haven Programme). The Project Haven Programme spent $22.21 million from 1988 to 1992, and has funded 458 shelter units. An additional CMHC programme, called "The Next Step", aims to address the need for longer-term accommodation for victims of family violence by providing capital funding for the development of non-profit "second stage" housing projects. The Next Step Programme has been allocated $21 million over five years (1991-95), which is expected to result in the provision of 80 emergency and 170 second-stage units.

2. Factors, difficulties and progress

178. As awareness of child abuse increases, the number of court actions has also increased, resulting in an increase in the length of time it takes to bring these cases to court. This delay has implications for the treatment and well-being of the child victim. The provinces and territories have jurisdiction over the administration of justice, and Justice Canada has initiated dialogue with them to address this issue.

179. The court process for dealing with child sexual and physical abuse and neglect is becoming more centred on the child. For example, a number of provinces are reviewing their child protection legislation with a view to making it easier for children to testify in court. Federal legislation has also facilitated the provision of children's testimony in courts.

3. Priorities and goals

180. Prior to 1991, the federal focus was on raising public awareness of child sexual abuse. While activities will continue to address the problem of child sexual abuse, they will also address child physical abuse and neglect.

181. Section 43 of the *Criminal Code*, which permits parents and teachers to use reasonable force on children, is currently being reviewed to assess its acceptability from the perspective of the present Convention. Health Canada is preparing to consult with interested individuals and groups on this issue, and to educate parents on alternatives to the use of physical force on children.

182. The Government of Canada has been involved in discussions with Aboriginal communities to determine the most appropriate way to deal with family violence in Aboriginal communities. Communities are setting their own priorities for services, such as assistance to victims of past abuse and prevention services.

183. The Government of Canada recognizes that it may be necessary to consider the adoption of additional measures to combat all forms of abuse. Among the measures suggested by the Canadian Coalition on the Rights of Children in the course of consultations with them on the present report are banning war toys and other violent games, increasing sentences for repeat offenders and developing measures to make the court process less stressful for children and less sexually biased.

L. Periodic review of placement: article 25

184. The administration and delivery of health and social services is the responsibility of the provincial and territorial governments. However, there is a federal responsibility for the administration and delivery of health and social services on reserves. There has been a movement towards increased control by First Nations for health and social services.

VI. BASIC HEALTH AND WELFARE

185. While Canadians are responsible for the basic health and welfare of their children, they are supported by an active and dedicated voluntary sector, as well as by governments at all levels - municipal, provincial, territorial and federal. At the federal level, Health and Welfare Canada has primary responsibility.

A. Survival and development: article 6 (2)

1. Measures in force

186. The Government of Canada has adopted preventive and promotional measures to improve the health of young children, through the preconception, prenatal, postnatal and early childhood stages. It aims to advance development in the areas of education and training, public awareness, research and community support, and to mobilize individuals, parents and interested organizations to act to reduce conditions of risk.

187. In 1992, as part of Brighter Futures: Canada's Action Plan for Children, the Government of Canada announced the Child Development Initiative, which has the objective of promoting the health and well-being of "children at risk " – that is, children who are likely to experience a higher than normal incidence of poor health and nutrition, mental health problems, disability and injury, or abuse and neglect, with such ensuing problems as developmental disabilities, early school drop-out and delinquency. The $459 million five-year initiative is a group of long-term programmes designed to address conditions of risk during the earliest years in a child's life.

188. The Community Action Programme for Children, a component of the Child Development Initiative, will provide ongoing funding to community groups to promote the health and development of children under the age of 7 who are at risk of poor health.

189. The Indian and Inuit Component of the Brighter Futures Initiative provides financial resources to Aboriginal communities to address the issues of mental health and child development, healthy babies, injury prevention, parenting and solvent abuse. The majority of the funds have been decentralized to deal with the issues in a community-directed manner. In addition, approximately 380 Indian and Inuit communities receive prevention services.

190. The Children's Mental Health Strategies Programme of the Child Development Initiative addresses children's mental health issues from a prevention and early intervention perspective. Particular emphasis is placed on children up to the age of 6 years whose circumstances (including

socio-cultural, economic, family and environmental factors) place them at risk for mental health and developmental problems. The Indian and Inuit Component of the Child Development Initiative is providing an amount of $145 million over a five-year period to Aboriginal communities to support their mental health programmes, and is aimed at strengthening the mental health of children, families and communities.

191. The Federal-Provincial-Territorial Working Group on Mental Health of Children and Youth has published a report entitled Building for the Future: A Framework for Mental Health Services for Children and Youth in Canada (see para. 32). The report recognizes that children and youth have specific biological, emotional, developmental and social needs, and sets the following objectives:

(a) to research the links between early childhood problems and adult mental health; to support early identification of children who are at risk of developing mental health problems and who are in need of services;

(b) to determine criteria for an epidemiological data-base regarding children with mental, emotional and behavioural problems; and

(c) to develop a framework for providing coordinated and comprehensive services to promote the mental health of children and youth.

The Children's Mental Health Strategies Programme of Health and Welfare Canada funded the preparation of the report.

192. The appropriate dosage and usage of prescription and non-prescription drugs is a vital consideration for children's safety and well-being. Health and Welfare Canada has engaged a clinical pharmacist to do research on the use of prescription and non-prescription drugs for children, with the findings from the research to be evaluated independently by the Canadian Paediatric Society. The Society will present recommendations on changes to produce monographs to the Government of Canada for appropriate action with industry.

193. Although immunization coverage for Canadian children is relatively high (the estimated immunization rate of Canadian children upon entry into school is 95 per cent), a number of children's immunization problems have emerged in the past few years, such as unexpected outbreaks of measles and pertussis, which have been attributed to inadequate immunization. In Canada, immunization programmes are a provincial-territorial responsibility, and there is mandatory vaccination in two provinces. The Government of Canada has made a financial contribution to the Canadian Public Health Association for two national conferences to provide a forum for provincial and territorial governments to standardize vaccine coverage. Under the Child Development Initiative, assistance will be provided for the development of national goals for diseases preventable by vaccines. In regard to children abroad, the Government of Canada will spend $50 million over five years on its international immunization programme, which will include 130 immunization projects in more than 60 developing countries.

194. The National Health Research and Development Programme, which received $25.168 million in grants and contributions in 1992-93, funds research on prenatal, infant and child health. Health and Welfare Canada sponsored a

symposium in 1992 on fetal alcohol effects and the fetal alcohol syndrome, and will concentrate on prevention. Furthermore, in partnership with Aboriginal people, a programme has been established to examine how environmental contaminants affect pregnancy and child development, particularly among Aboriginal women and children where contaminant problems exist.

195. See paragraph 226 on comprehensive school health.

2. Measures foreseen

196. Health and Welfare Canada is currently seeking a consensus on national Child Health Goals, with a view to developing a vision of child health in Canada that will address the issue of what makes children healthy and set in motion a process to facilitate the achievement of health goals for them.

197. Health and Welfare Canada has begun an initiative for the development of Children's Nutrition Recommendations, which brought together nutritional experts to review the guidelines and formulate a statement of national policy with respect to dietary fat intake by children. A draft report prepared jointly by Health and Welfare and the Canadian Paediatric Society was endorsed in principle. Guidelines will be disseminated among groups involved in children's nutrition and feeding, such as schools and day-care centres.

198. Through consultation with provinces and territories, Health and Welfare Canada is developing a National Public Health Unit-based Surveillance Programme to improve the accuracy and timeliness of information on communicable and non-communicable childhood diseases (such as meningitis and childhood asthma). Surveillance on this scale is essential for effective application and evaluation of public health disease prevention measures.

199. The nourishment of a low birth-weight infant can have profound effects on long-term growth and development. Health and Welfare Canada is currently engaged in developing Standards for Low Birth Weight Baby Formula, which involves the development, promulgation and application of standards and guidelines to ensure that commercial baby formulas for low birth-weight babies meet their nutritional needs. When the guidelines have been finalized, consideration will be given to whether they should be enacted as regulations.

3. Institutions and mechanisms

200. An Ad Hoc Committee of First Nations Technical Experts has been established with a mandate to identify elements of a national strategy to address fetal alcohol syndrome and effect (FAS/FAE). It has developed a process for the development of the national strategy. FAS/FAE will be featured in the 1993 addictions awareness week.

4. Governmental-NGO cooperation

201. Health and Welfare Canada has a Grants and Contributions Programme to National Voluntary Health Organizations, which supports non-governmental organizations in carrying out education and prevention programmes to decrease child and infant morbidity and mortality. Among organizations supported are the Canada Safety Council, the Canadian Foundation for the Study of Infant Deaths, Saint John's Ambulance, the Canadian Red Cross Society and the

Canadian Council on Smoking and Health. In 1992-93 the Government of Canada contributed $2.899 million to 48 national voluntary health organizations. In addition, family health and family planning counselling and services are supported through La Leche League, Planned Parenthood Federation of Canada and Serena Canada. Support is also provided to the following associations dealing with specific diseases affecting children: Canadian Cystic Fibrosis, Canadian Diabetes Association, Canadian Down's Syndrome Society, Canadian Haemophilia Society, Spina Bifida Association of Canada and Turner's Syndrome Society of Canada.

202. The health of children is a major focus of the Health Promotion Contribution Fund of Health and Welfare Canada. The fund provides support to the non-governmental sector to implement projects in areas such as breast-feeding promotion and the prevention of low birth-weight and inequalities in parenting and child health.

203. Health and Welfare Canada, in conjunction with community organizations, is developing a Canadian Children's Safety Network, and is working with the Canadian Institute of Child Health and the Canadian Association of Paediatric Hospitals to develop a directory of childhood injury prevention programmes, resources and researchers. In collaboration with the Canadian Centre for Health Information, it is developing a procedure for surveillance of the prevalence and incidence of childhood asthma.

204. The Medical Services Branch of Health and Welfare Canada is working in partnership with non-governmental organizations to develop projects relating to the health of Aboriginal children. Some projects are:

(a) With the Aboriginal Nurses' Association of Canada, developing a model curriculum guide for the education and training of community health personnel in prevention of injury;

(b) With the Institute of Health Promotion Research at the University of British Columbia, a literature review of the effectiveness of injury prevention in Aboriginal Communities;

(c) With the Health Sciences Centre of the University of Ottawa, to analyse available data and produce a statistical report on fatal injuries among status Indians;

(d) With the Injury Prevention Centre of the University of Alberta, to design, deliver and evaluate twelve Childhood Injury Prevention Workshops for Aboriginal community practitioners;

(e) With Pauktuuit, the Inuit Women's Association, to identify child health goals and develop a framework and strategy for activities to promote healthy Inuit babies;

(f) With the Assembly of First Nations, to establish a technical committee on child health goals and healthy babies activities for First Nations people;

(g) With the Faculty of Nursing at MacMaster University for a literature review of the effectiveness of healthy babies programmes in Aboriginal communities;

(h) With the Canadian Pediatric Society, the Canadian Institute for Child Health and the Sudden Infant Death Syndrome Foundation, to develop a strategy to reduce the incidence of Sudden Infant Death Syndrome;

(i) With the Canadian Institute of Child Health, to improve statistical information on the health of Aboriginal children.

205. In the area of mental health and child development, the Medical Services Branch has hosted a Suicide Prevention Workshop and has supported consultation processes for First Nations, Inuit and Dene people on mental health and child development issues. Activities to improve mental health and child development are based on the importance of healthy families and communities.

5. Factors, difficulties and progress

206. Infant and child mortality rates of Aboriginal children have dropped dramatically in recent years, from 82.0 deaths for every 1,000 live births in 1960 to 10.2 for every 1,000 live births in 1990. However, they remain higher (about 50 per cent) for Aboriginal children than for other children. There are problems of fetal alcohol syndrome, suicides, child abuse, substance abuse and prostitution. The physical conditions in which Aboriginal peoples live are often adverse to their survival and development. Alienation from the values of their traditional way of life has also not been conducive to their well-being.

6. Priorities and goals

207. Resource materials on the multicultural adaptation of parents are being prepared for the Postpartum Parent Support Programme and Nobody's Perfect Programme.

208. It is a goal of the Government of Canada to design and implement a national prenatal health programme to promote healthy births.

B. Disabled children: article 23

1. Measures in force

209. The Secretary of State of Canada is responsible for encouraging the full participation of all Canadian citizens, including children with disabilities, in the educational, economic and social aspects of life. It coordinates the participation of 10 federal departments and agencies in carrying out the National Strategy for the Integration of Persons With Disabilities. The Strategy, which was announced in 1991, is a five-year project with a total budget of $158 million. It is dedicated to the goals of equal access, economic integration and effective participation of persons with disabilities.

210. As part of the National Strategy, the Secretary of State of Canada, in cooperation with the Department of Justice, coordinated a comprehensive review of legislation affecting persons with disabilities, which led to the

enactment, in 1992, of Bill C-78, *An Act to Amend Certain Acts with Respect to Persons with Disabilities*. This omnibus legislation amended six federal statutes. For example, the preamble of the *National Transportation Act* was amended to include access for persons with disabilities as an element in the overall description of Canada's transportation system.

211. Another element of the National Strategy, under the responsibility of Health and Welfare Canada, addresses the needs of children and youth with disabilities. A fund of $4 million has been established to help child-serving organizations, such as schools and day-care agencies, to better integrate children with disabilities into their programmes.

212. In 1985 the Secretary of State of Canada created the Disabled Persons Participation Programme to support non-governmental organizations of disabled persons in undertaking projects related to legislative reforms, acting as advocates and assisting the media and advertising organizations to develop approaches which promote a favourable portrayal of disabled persons, including children. Support has been provided to organizations such as the Canadian Association for Community Living to carry out projects aimed at increasing awareness among young people of the challenges and obstacles facing youth with intellectual disabilities, and introducing school friendship circles to enable children with disabilities to be included in all aspects of regular school life.

213. The Secretary of State of Canada has created the Open House Canada-Youth Participation Programme, which provides for exchange and learning opportunities for youth. Youth with disabilities are one of the targeted client groups. The programme aims at increasing knowledge, appreciation and respect for the diversity of Canadian society and its institutions.

214. In accordance with paragraph 4 of article 23, the Secretary of State of Canada has taken initiatives to provide international leadership and establish a network of ministers responsible for the status of persons with disabilities, with a permanent Secretariat in Montreal.

215. The Canada Mortgage and Housing Corporation has provided funds to adapt dwellings to meet the special needs of disabled persons, including disabled children, through the Residential Rehabilitation Assistance Programme.

216. Pursuant to the *Canada Assistance Plan* the Government of Canada shares with provinces and territories the cost of day-care services for children with disabilities and of special needs such as wheelchairs, special diets, hearing aids and glasses.

217. See paras. 139, 189 to 191, 227, 239 and 240 for information on measures that the Government of Canada has adopted regarding mentally disabled children.

218. In 1991-92, Disabled Peoples' International, a self-help development programme which seeks to increase the participation of disabled people in the social and economic development of their respective countries, received $535,981 from the Canadian International Development Agency (CIDA).

2. Institutions and mechanisms

219. The Status of Disabled Persons Secretariat coordinates activities relating to disabled persons and conducts consultations, develops policies and undertakes special projects. It has established a National Clearinghouse to provide information and expert advice on Canadian models of integration and accessibility that will be made available to governments, the Canadian public, other countries and the United Nations, its international agencies and organizations.

220. The Government of Canada has pioneered the concepts of community living and included people with disabilities as full participating members of society. Leaders in the children's movement are now turning to Canada for help in understanding our successes and in learning how to apply them elsewhere. The Government of Canada will provide over $2 million to the Partnership in Community Living Project, one of several projects funded under the Partners for Children Fund, which is a collaboration between Canadian and inter-American partners, designed to influence policies and programmes for children with disabilities throughout the Americas. Children with disabilities and their families will be involved in all aspects of the project.

C. Health: article 24

221. Through the efforts of voluntary organizations, professional associations, Canadian citizens and governments, Canada has built a health care system which is one of the most accessible and efficient in the world. Today, Canadians are among the world's healthiest people, with a high average life expectancy and one of the lowest infant mortality rates of any country.

222. The administration and delivery of health services, including services for children, are within the jurisdiction of provincial and territorial governments. The Government of Canada makes a financial contribution towards these services, establishes the basic framework of the health care system in Canada, and operates a number of programmes designed to contribute to the health of everyone in Canada, including children.

223. In regard to health care for Aboriginal children, since the mid-1980s the Government of Canada has been in the process of transferring the resources for community health programmes and the operation of health facilities to Aboriginal communities. Over 25 agreements have been signed and more than 212 are in planning stages. In addition to the long-term savings in health care that are expected, transfer to First Nations will provide culturally sensitive care that may provide more effective and long-lasting results.

1. Measures in force

224. The *Canada Health Act* establishes the basic criteria for eligibility for federal funding of provincial-territorial health systems: public administration, comprehensiveness of health care services, universality of coverage, portability from one province to another, and accessibility of health care services on a uniform and reasonable basis. For the most part doctors and hospitals do not impose direct charges on patients.

225. A comprehensive approach to health promotion called Achieving Health for All: A Framework for Health Promotion has been adopted, based on the World Health Organization's definition of health promotion as "the process of enabling people to increase control over, and to improve their health" by strengthening public participation, coordinating healthy public policy and strengthening community health services. Programme strategies provide funding to advance development in the areas of education and training, public awareness, research and support to communities.

226. The Government of Canada encourages the provinces to develop a Comprehensive School Health approach to school-based health promotion, involving a broad spectrum of programmes, activities and services which take place in schools and their surrounding communities. The Comprehensive School Health Programme provides a practical framework for action that integrates instruction about health, support services for students and families, social support from families, peers, school staff, public policy and the community and a healthy physical environment. Such action is designed to improve the health and well-being of individual students and to change the environment in which they live and learn.

227. Through the Child Development Initiative of Brighter Futures (see paras. 30 and 187), Health and Welfare Canada has developed a number of programmes to support parents and contribute to the healthy development of children:

(a) The Healthy Babies Programme works to improve prenatal, maternal and infant health and the situation of infants at risk, and supports parents during the prenatal and postnatal period;

(b) The Breast-feeding Promotion Programme aims to improve the health of infants by promoting breast-feeding. Studies have shown that breast-fed babies are less subject to gastrointestinal disease and respiratory illness;

(c) Childhood Safety Promotion Programmes aim to reduce the rates of injury-related mortality and morbidity among children;

(d) The Canadian Hospitals Injury Reporting and Prevention Programme has developed a national network of childhood injury surveillance;

(e) The Food Safety Initiative has the aims of providing immediate protection from food-borne illnesses and ensuring the early development of lifelong healthy habits;

(f) The Cancer Control Programme has established a national childhood cancer surveillance and risk assessment system based on provincial and territorial cancer registries. Aboriginal children are at the centre of this programme because they experience higher cancer mortality rates;

(g) The Children's Mental Health Strategies Programme aims to develop knowledge through research, to evaluate existing mental health programmes and to support the exchange of information on emerging issues, knowledge and skills. See also paragraphs 139, 189 to 191, 239 and 240 for information on other measures adopted to foster the mental health of children.

228. The *Food and Drugs Act* was introduced in 1953 to ensure a high standard of safety and nutritious quality of foods, plus the safe and effective production of drugs sold in Canada.

229. The Canadian Children's Heart Health Initiative is a public health and health promotion strategy for cardiovascular disease prevention and control. It was established in 1985 in an effort to promote behaviour that is conducive to a healthy heart in children, youth and their families at the school, family and community levels.

230. The Canadian Task Force on the Periodic Health Examination makes recommendations on procedures, content, and frequency of preventive interventions at defined ages and for specific population groups. A number of recommendations concern the health of children, e.g. screening for cystic fibrosis, preschool screening for developmental problems and for visual and hearing deficits, prevention of neonatal herpes simplex, and baby care in the first two years of life.

231. In the case of status Indian and Inuit children, the Government of Canada provides free medical benefits not covered by provincial-territorial health systems, e.g. dental care.

232. Many of the illnesses of Aboriginal children are related to poor water quality. To address this problem, in addition to the annual capital allocation for water and sewer projects on reserve, the Government of Canada has announced that it will provide $275 million over six years for a major Indian Water and Health Initiative.

2. Institutions and mechanisms

233. The Health Promotion Directorate of Health and Welfare Canada includes a Child and Family Health Unit which deals with priority health promotion concerns for children and families.

234. The Federal-Provincial Advisory Committee on Institutional and Medical Services serves as a continuing forum for consultation and information exchange between officials and consists of senior provincial and territorial health plan officials, as well as representatives of the federal government.

235. The Canadian Diabetes Advisory Board – Expert Committee developed clinical guidelines for the treatment of diabetes mellitus in children, adolescents, and adults.

236. As the lead agency in Canada's international development outreach, CIDA has a budget of $2.3 billion a year to oversee the implementation of thousands of development projects and to provide substantial support to multilateral organizations. Children benefit directly or indirectly from many of these activities, especially those that address basic needs, job creation and women.

3. Governmental-NGO cooperation

237. The Federal-Provincial Advisory Committee on Health Services has a continuing liaison with a number of major national health organizations, such

as the Canadian Hospital Association, the Canadian Council on Health Facilities Accreditation and the Canadian Standards Association.

238. The Health Promotion Contribution Programme supports NGO activity to foster the health and social development of children. An expanded expert consultation in 1992 confirmed broad child health goals and recommended a national process to endorse the goals through wider consultation.

239. The Strategic Fund for Children's Mental Health provides financial support to non-governmental projects that advance priorities in research, programme development and improvement of strategies for service provision to children with mental health problems.

240. In collaboration with the Canadian Mental Health Association, Health and Welfare Canada has developed a programme entitled Changing the Way Things Work to encourage youth participation in the development of institutional policies that affect them. The next step is the development of implementation strategies.

241. Health and Welfare Canada has funded the Canadian Institute of Child Health (CICH) to develop a set of mental health indicators for children as part of its revised report entitled The Health of Canada's Children: A CICH Profile.

242. A $16 million Canadian contribution programme entitled the Partners for Children Fund aims to help children in less developed countries, and other areas such as Eastern Europe, Latin America and the Middle East. This new fund operates in conjunction with the long-standing endeavours of CIDA. Target groups of children include children at risk, female children and Aboriginal children. Funding is directed through Canadian non-governmental organizations working internationally for children.

243. In 1991/92 the Government of Canada contributed a total of $51.5 million to UNICEF. Canada is also a very active member in the Universal Child Immunization programme of the United Nations, which has about 100 projects in 50 countries. CIDA also makes substantial contributions through international organizations and non-governmental organizations to assist people who are victims of war, conflicts and drought – a large percentage of whom are children – in the Horn of Africa. Ongoing policy discussions at all levels and in a variety of bilateral and multilateral settings encourage reallocation of resources to basic needs and greater attention to human rights, good governance and democratic development. A high priority is given to sustainable development.

4. Factors, difficulties and progress

244. While the level of health enjoyed by Canadian children is among the highest in the world, there continue to be concerns about health risks, inequities in health between high- and low-income people and the costs of health care.

245. In recent years, the health of Aboriginal children has improved considerably as a result of better living conditions, better health care and greater community involvement in health education and delivery.

5. Priorities and goals

246. The Government of Canada recognizes that care should be taken to ensure that appropriate consideration is given to traditional healing methods when planning and funding Aboriginal health care programmes.

247. Canada plans to continue to provide support to immunization goals in the 1990s, and has allocated $50 million over five years to this priority. In addition, it will support the development of new and improved vaccines against childhood diseases. Through the Pan-American Health Organization, Canada supports other programmes aimed at improving vaccines for children in the Americas.

D. Child-care services and facilities: article 18 (3)

1. Measures in force

248. The Government of Canada has a range of measures available to support working parents and all Canadian families in meeting their child-care needs. In the 1992 budget, the Government of Canada increased the deduction under the *Income Tax Act* for child care by $1,000 to $5,000 for each eligible child under 7 years old, and to $3,000 for eligible children between 7 and 14 years old. Dependent care allowances are provided for trainees in training programmes sponsored by Employment and Immigration Canada who have dependents requiring care. Under the *Canada Assistance Plan*, the Government of Canada shares in the day-care expenditures made by provinces and territories for low-income families.

249. The Child Care Initiatives Fund supports demonstration, development and research projects that promote innovation in the field of child care, stimulate the creation of services in under-served areas, encourage initiatives aimed at the improvement of child-care services and increase public awareness. In 1992/93, 182 projects were funded in the amount of $16.4 million.

250. The National Child Care Information Centre is the main source within the federal government of information and technical expertise on child care to social service organizations, child-care associations, resource centres, libraries, educational institutions and the general public. The primary objective of the Centre is to support and promote the development of child-care services in Canada.

2. Factors, difficulties and progress

251. The Child Care Initiatives Fund (CCIF) has had a significant effect on child-care services for Aboriginal peoples. Since its inception in 1988, approximately 20 per cent of all contributions of the Fund have gone to support Aboriginal peoples.

252. Fiscal restraints facing all levels of government as well as changing priorities have precluded the introduction of a new major child-care strategy that would imply the creation of new facilities. Rather, available funds have been committed to the support of new comprehensive programming aimed at

children at risk of poor health, poverty, abuse and neglect. This federal initiative is part of the Brighter Futures plan already mentioned. See also paragraphs 30 and 187.

E. Social security: article 26

1. Measures in force

253. The Canada Pension Plan (CPP) provides two benefits to children of contributors: the Disabled Contributor's Child Benefit, which is payable on behalf of the child of a person receiving a CPP disability pension, and the Orphan's Benefit, which is payable on behalf of the child of a deceased contributor. If both parents are deceased or disabled, two orphan's benefits are payable in respect of a child.

254. Pursuant to the *Unemployment Insurance Act*, approximately $1 billion is spent each year on maternity and parental benefits. The Act provides 15 weeks of maternity benefits to pregnant women and a total of 10 weeks of parental benefits to the mother or father, or to both, of a newborn or newly adopted child.

255. The Family Allowances Programme, created in 1945, supplemented the income of Canadian families by providing for the payment of a monthly benefit on behalf of all dependent children under the age of 18 years resident in Canada and in the care of parents or guardians. Special allowances were paid to welfare agencies, government departments and institutions, and sometimes directly to foster parents, who maintained children under the age of 18 years. At the end of 1992 the Family Allowance Programme ceased to exist, and was replaced by the new Child Tax Benefit under the *Income Tax Act* in 1993. The Child Tax Benefit is a single, monthly, tax-free payment and is a new supplement for low-income working families. The Child Tax Benefit provides simpler, fairer and more generous support to families with children, especially low- and modest-income families.

2. Institutions and mechanisms

256. To ensure timely review of social policy aspects of the *Canada Pension Plan* (CPP), Health and Welfare Canada, in cooperation with the provinces and territories, established a Federal-Provincial-Territorial CPP Committee.

3. Governmental-NGO cooperation

257. Health and Welfare Canada consults with national non-governmental organizations on issues relating to the *Canada Pension Plan*.

F. Standard of living: article 27 (1-3)

1. Measures in force

258. The *Canada Assistance Plan* was established by an Act of Parliament in 1966 to encourage provinces to expand their social welfare programmes. It is a major federal programme that enables the Government of Canada to share the costs of a wide range of provincial and territorial programmes designed to ensure that everyone in Canada, including children, has a standard of living

adequate for their physical, mental, spiritual, moral and social development. It covers assistance programmes for persons in need as well as welfare services to lessen, remove or prevent the causes and effects of poverty, child neglect and dependence on public assistance. In 1992/93, under the *Canada Assistance Plan*, the Government of Canada transferred $7.4 billion to the provinces.

259. Programmes funded by the *Canada Assistance Plan* of particular relevance to children include the following: residential care for children in the care of the state; maintenance of children in foster homes; day-care services (pre-school, after-school, family home care, special needs day care); special needs (back to school costs, books, tuition, glasses, hearing aids); non-insured health care (drugs and dental); child welfare services (protection services for abused or neglected children, preventive services, foster and adoption home finding and placement) and counselling services.

260. The National Welfare Grants Programme is a national research and development programme which has as its mandate the development and promotion of knowledge and resources that will contribute to the social well-being and healthy social and economic environment of all Canadians. The 1992/93 budget of the National Welfare Grants Programme was $7.875 million. One of its priority areas for funding is research in child and family issues, with the aim of producing knowledge to assist decision-makers in formulating policy for children that will reflect their best interests. The National Welfare Grants Programme funds research projects on Child and Family Poverty, with a twofold objective: to provide a better understanding of the issues of families and children as they struggle to exist and remain off social assistance, and to increase knowledge of the most effective programmes and policies to address the needs of children and families on social assistance.

261. The Canada Mortgage and Housing Corporation (CMHC) assists families with children in meeting their housing needs through its market housing, social housing and housing support programmes. CMHC's market housing programmes are oriented towards assisting households, including families with children, in satisfying their housing requirements on the private housing market.

262. In partnership with provincial and territorial government housing agencies, the CMHC has operated social housing programmes to assist low-income families with children who cannot afford suitable and adequate housing on the private market. The Government of Canada spends approximately $2 billion annually on these programmes to maintain the supply of affordable housing and subsidize the rents of low-income families residing in the existing private rental stock. The CMHC also has programmes to provide financial assistance to undertake substantial rehabilitation work and, in rural areas, to complete emergency repairs. Special social housing programmes have been designed to meet the needs of native clients off reserve.

263. The annual capital expenditures of Indian and Northern Affairs Canada (DIAND) on housing are approximately $200 million, including $136 million in capital subsidies provided directly to Aboriginal communities for construction and repairs. Thirty per cent of the housing on reserves was built, and over 35 per cent renovated in the past six years. Through a national housing policy review, DIAND and Indian bands have been exploring ways to improve the use of existing federal resources.

264. The *Income Tax Act* includes measures to assist parents in ensuring that their children have an adequate standard of living. In 1993 the Child Tax Benefit was introduced, as described in paragraph 255 above. A Refundable Credit offsets the Goods and Services Tax (GST) paid by Canadian parents in respect of each of their children. The GST Credit is reduced gradually as the income of the parents increases over a given threshold. The *Income Tax Act* also provides for an increased tax credit for single parents who provide for at least one child.

2. Institutions and mechanisms

265. The CHMC and its provincial and territorial government partners have developed appropriate procedures to ensure the effective planning, delivery and evaluation of its social housing programmes as well as the management of the existing housing portfolio.

266. Through its National Housing Research Committee, the CMHC has also forged productive partnerships with federal, provincial, territorial and municipal governments, housing industry associations and consumer and social groups to advance research and development activities relating to housing and living environments.

3. Factors, difficulties and progress

267. Federal social housing programmes are making an important contribution towards meeting the housing needs of low-income families and their children. Some 650,000 social housing units nationwide are currently subsidized through these programmes. An estimated 500,000 children under the age of 18 reside in these units, the majority of whom are from low-income families.

268. Significant improvements continue to be made in the living conditions of Aboriginal peoples. However, the Government of Canada recognizes that there is inadequate housing and amenities in many Aboriginal communities. The need for housing assistance is also disproportionately high among single-parent families.

269. For a five-year period commencing in 1990 the Government of Canada has limited the annual rate of growth to 5 per cent in its contributions under the *Canada Assistance Plan* to the wealthiest provinces for programmes for disadvantaged Canadians, including children. This limit is part of the global attempt of the Government of Canada to control annual deficits and ultimately reduce the national debt. Among programmes potentially affected are social assistance, child day-care services, child welfare services and services to victims of violence. There is, however, little evidence of actual reduction in these programmes.

4. Governmental-NGO cooperation

270. Cooperation with non-governmental organizations has been a central element of CHMC's social housing programmes, under which individual non-profit housing corporations and cooperative housing associations sponsor and manage federally-assisted social housing projects. Provincial and territorial

governments are major partners in the CMHC's social housing programmes. These governments share in the cost of these programmes, and in many cases have been the lead party responsible for their delivery.

5. Measures foreseen

271. During 1993 and 1994, the CMHC will be reviewing and, where appropriate, updating its publications and advisory materials promoting good living environments for children.

6. Priorities and goals

272. In 1993 and 1994, a priority for the CMHC will be developing innovative ways of addressing the housing needs of low- and moderate-income Canadians. Particular emphasis will be given to improving access and affordability, through innovative housing finance, institutional and regulatory reform and public-private partnerships.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education: article 28

1. Measures in force

273. Although education in Canada is a provincial and territorial responsibility, the Government of Canada promotes a coordinated national approach to education, based on excellence and equality of opportunity. In 1991/92 the Government of Canada provided over $1 billion in support for elementary and secondary education. This support was channelled through direct schooling programmes, including those for Indians and Inuit, as well as for official language education and other programmes.

274. In 1990 the Government of Canada announced the Stay in School Initiative to reduce the drop-out rates in Canadian high schools. It provides labour market programmes and support services to those young people most at risk of dropping out of school. Through the initiative, the Government of Canada aims to increase public awareness of the problem of dropping out to children, parents and community and business leaders. It includes the Occupational and Career Information Programme, which provides career information to young people to assist in their career planning. The Career Information Directorate develops print, computer systems and video materials specifically geared to the school-age group.

275. See paragraph 226 on comprehensive school health.

276. The Labour Force Development Strategy, which focuses on vocational education, apprenticeship, and cooperative education, provides transition from school-to-work measures and occupational and career information to students.

277. At present there are more than 300 schools managed by Indian bands in Canada, serving 47 per cent of Indian students. The remainder either attend schools operated directly by the Government of Canada or are enrolled in the provincial or territorial school systems.

2. Factors, difficulties and progress

278. Where Indian bands have taken on responsibility for their own educational programmes, there has been a generally recognized improvement in school attendance, retention rates and performance. For example, enrolment in band-operated schools has increased by approximately 42 per cent in the last five years. Nevertheless, the drop-out rate at the high school level remains well above the national average and is the object of continuing attention.

B. Aims of education: article 29

279. In 1991 the Government of Canada launched a national Prosperity and Learning Initiative, geared to future directions for learning. Consultations with a wide range of Canadians in the public and private sectors were conducted by an independent Steering Group on Prosperity. Its report entitled Inventing Our Future: An Action Plan for Canada's Prosperity, released in 1992, stressed three broad themes: innovation, learning and inclusion. It offers a strategy for building a learning culture in Canada through emphasis on excellence, results and greater accessibility.

280. Multiculturalism and Citizenship Canada encourages education policies and programmes which take into account the needs of ethno-cultural minority families, provide opportunities for all students to understand the cultures of their fellow students, and serve to eliminate racist attitudes, establish standards for acceptable behaviour and contribute to equality of opportunity.

281. The Canadian Studies Programme encourages the development of Canadian studies learning materials in a number of specific content areas considered to be underdeveloped or neglected, for use at any educational level or by the general public.

282. The Open House Canada Programme has a mandate to increase the knowledge, appreciation and respect of Canadian youth for the diversity of Canadian society and its institutions. Funding is provided to non-profit organizations to administer reciprocal youth group exchanges and national forums.

283. The Commonwealth Youth Programme promotes the overall well-being of young people in the Commonwealth, through encouraging youth participation in national development, recognizing their contribution to society, and increasing international understanding among Canadian youth. Current priorities include youth enterprise and employment, young women and development, health, drugs and AIDS, the environment, literacy and youth policy development.

C. Leisure: article 31

Physical activity

284. The Government of Canada supports active living for young Canadians, through the Ministry of Fitness and Amateur Sport. It has developed a collaborative national plan entitled Because They're Young: Active Living for Canadian Children and Youth: A Blueprint for Action to raise the priority of physical activity for Canadian children and youth. It is aimed at key leaders

who may influence the systems, environment and societal norms that support active living for children and youth.

285. The Fair Play Initiative advocates the elimination of violence and improvement of the ethical environment in sports. The Canadian Child Care Physical Activity Survey identifies needs in the continually growing area of day care. Physical Activity and the Child reviews the current status of research with respect to the physical and mental development of prepubertal children.

286. Jeux Canada Games were established in 1967 with the motto, "Unity Through Sport". The games are held every two years, alternating between winter and summer competitions. They provide Canadians as young as 11 years old with the opportunity to experience the value of participation in sport. The cost of the games is shared by federal, provincial and municipal governments.

287. The Government of Canada supports activities in sport for children through the Sport Canada Core Support Programme by making financial contributions to assist teachers and instructors in introducing children between the ages of 6 and 12 years to sport. Emphasis is placed on fun, developing basic skills and confidence building.

Cultural activity

288. The Government of Canada through the Canada Council provides funding for Canadian children to participate in and enjoy cultural activities in the fields of dance, music and theatre. Federal support is provided for the development of young artists and writers, through grants to non-profit music societies and organizations which contribute to the career development of young Canadian musicians, scholarships to the most promising students at the National Ballet School and National Theatre School, grants for artists working in the areas of children's literature and drama and travel subsidies for professional performing artists to appear in children's festivals in other provinces.

289. In keeping with the United Nations *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, as well as with article 30 of the present Convention, the Heritage Cultures and Languages Programme of Multiculturalism and Citizenship Canada supports heritage activities such as skill development in performing and visual arts, writing and publications and theatre and film projects, in addition to promoting innovative approaches to the learning of heritage languages. These activities make heritage cultures and languages more accessible to children and youth from ethno-cultural communities.

Museums

290. The Canadian Museum of Civilization includes a Children's Museum, which provides animated sessions, workshops, performances and demonstrations for children. It has produced specially designed children's exhibitions for circulation across Canadian museums until 1997. The National Aviation Museum provides extensive programming for children through guided tours, workshops, demonstrations and workshops for children. The Museum also works with teachers to develop programmes to respond to their curricula needs.

291. The public programming of the National Museum of Science and Technology is intended to foster scientific and technological literacy by contributing to an informed public, in particular, by inspiring young people to consider careers in science and technology. The Canadian Museum of Nature's collections in the fields of botany, zoology and the earth sciences are of particular interest to educators and students. The museum operates an extensive educational programme to increase children's knowledge, appreciation and respect for the natural world.

292. There are a number of other national museums and galleries in Canada of interest to children, including the National Gallery of Canada and the Canadian War Museum.

293. The Museums Assistance Programme of the Department of Communications provides financial and technical assistance to Canadian museums, art galleries, exhibition centres and related institutions, to increase physical and intellectual access to our natural, cultural and technological heritage, and to preserve museum collections for future generations.

1. Institutions and mechanisms

294. With respect to article 28 (3), Canada participates regularly in meetings of the steering committee of the education sub-commission at UNESCO and on the Education Committee of the Organization for Economic Cooperation and Development (OECD).

295. An interdepartmental working group on educational materials, made up from 47 federal departments and agencies, promotes cooperation in supporting the development and distribution of curriculum support materials for primary and secondary school students and teachers.

296. Jointly with the Council of Ministers of Education, the Government of Canada supports the Canadian Information Centre for International Credentials, which facilitates the integration of international students and immigrants into the Canadian education systems, as well as Canadian students to educational institutions abroad.

297. The Commission for Fair Play was established in 1986 to promote the principles of fair play in sport activities for Canadians. Particular interest is paid to children and children's experience in sport.

2. Governmental-NGO cooperation

298. The Government of Canada, through a variety of instruments and agreements, cooperates closely with non-governmental and international organizations on education issues.

299. A Children's Advisory Committee composed of children provides the national Children's Museum with ideas on the development and enhancement of programmes and exhibitions.

300. The Active Living Alliance for Children and Youth (funded by Fitness Canada) is a partnership of national organizations and agencies whose goal is to create a supportive environment for healthier, more physically active

lifestyles for Canadian children and youth. A Central Information Bank on Children-Youth and Active Living is provided by the Active Living Alliance for Children and Youth to maintain a referral service which directs Canadians to the appropriate resources. In 1993 the Active Living Alliance for Children and Youth was incorporated into a new entity entitled Active Living Canada.

301. The Fitness Canada Contributions Programme assists the development and implementation of national programmes and activities of national non-governmental organizations which promote and provide physical activity opportunities.

302. The Quality Daily Physical Education Programme is a joint venture of Fitness and Amateur Sport and the Canadian Association of Health, Physical Education and Recreation. It is designed to increase awareness of the importance of physical education in schools through the development of resources and a national lobbying campaign. In addition, the Government of Canada has committed funding to develop a strategy on active living for the pre-school child which began with a national workshop in April 1993.

3. Factors, difficulties and progress

303. There is unequal access by children to recreational facilities, particularly by children living in remote or rural communities. The growing expense of cultural activities for children is cause for concern, and the Government of Canada plans to encourage the private sector to play a greater role in increasing access in this area.

4. Priorities and goals

304. The Canadian Active Living Challenge for children and youth will be launched in 1994. To date Fitness Canada has committed $0.75 million to develop, design and produce this programme. The focus of the initiative is on activity, fun and participation, personal progress and encouragement of daily physical activity throughout life. Delivery of the programme will be through national organizations to schools, communities, clubs and camps. During the pilot phase an estimated 100,000 young Canadians will participate, with a future annual target rate of 1 million participants.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency: articles 22 and 38

1. Article 22 (refugees)

(a) Measures in force

305. Section 3 (g) of the *Immigration Act* states that one of the objectives of Canadian immigration policy is "to fulfil Canada's international legal obligations with respect to refugees and to uphold its humanitarian tradition with respect to the displaced and the persecuted".

306. Any person may claim to be a Convention refugee under the *Immigration Act*. Pursuant to section 2 of the *Immigration Act*, and in accordance with the *Convention relating to the Status of Refugees*, a Convention refugee is any

person who by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion is outside the country of the person's nationality or is unwilling, by reason of that fear, to avail himself or herself of the protection of that country.

307. Children may arrive in Canada without their parents and claim to be Convention refugees, or they may arrive with their parents and, along with them, claim refugee status. In other cases, it may be just the parents who claim to be Convention refugees. In such circumstances, pursuant to section 46.04 of the *Immigration Act*, if the parents are so found, they may apply for landing of themselves and their dependants.

308. Refugee claims are considered by an administrative tribunal. A negative decision is reviewable by the Federal Court. A positive decision has the result that the claimant is entitled to remain in Canada; the refugee may apply within Canada for permanent resident status, which status will normally be granted unless security or criminal record considerations render the refugee ineligible for such status. Even in such circumstances, a Convention refugee may not be removed to a country where the person's life or freedom would be threatened for the reasons outlined in paragraph 306.

309. The *Canadian Charter of Rights and Freedoms* applies to everyone in Canada, including refugees. In Singh et al. v. Minister of Employment and Immigration the Supreme Court of Canada held that by virtue of section 7 (right to life, liberty and security of the person) of the Charter, persons in Canada claiming to be Convention refugees have a right to an oral hearing.

(b) Factors, difficulties and progress

310. In 1992 the Government of Canada introduced Bill C-86, the Act to amend the *Immigration Act* (proclaimed in force on 1 February 1993). It exempts refugees so found in Canada who apply for permanent resident status from the application of section 19 (1) (a) (medical inadmissibility) and section 19 (1) (b) (inadmissibility for inability or unwillingness to support oneself). In 1994, the Immigration Regulations were amended to permit refugee claimants to obtain work permits pending the determination of their claim.

(c) Priorities and goals

311. The Government of Canada plans to adopt measures to ensure that immigration and refugee boards are well informed about relevant provisions of the present Convention.

2. Article 38 (armed conflicts)

(a) Measures in force

(i) Paragraph 1

312. Canada has ratified the Geneva Conventions of 12 August 1949 and the Additional Protocols to the Geneva Conventions of 1977, and in accordance with

their provisions has adopted measures to educate members of the Canadian Forces about international humanitarian law rules regarding combatants, prisoners of war, and civilians including children.

(ii) **Paragraphs 2 and 3**

313. Relevant age limits for participation of Canadian youth in the armed forces are set out in paragraph 49.

(iii) **Paragraph 4**

314. It has been the practice of members of the Canadian Forces engaged in peacekeeping activities for the United Nations, or other actions of a military nature in accordance with the resolutions of the United Nations, to take measures to care for, protect and provide for non-combatants in general and children in particular. At present Canada is participating in a number of peacekeeping operations which include the delivery of humanitarian aid to the children of Yugoslavia, Cambodia and Somalia.

B. Children in conflict with the law

1. Article 40 (administration of juvenile justice)

315. As with many other areas of the Convention, the Government of Canada and provincial or territorial governments share constitutional responsibility for matters relating to children in conflict with the law. The Government of Canada has jurisdiction over criminal law, including criminal procedure, and has enacted the *Young Offenders Act*. Provincial and territorial governments have jurisdiction over the administration of juvenile justice, including the provision of custodial and health facilities and services for young persons in conflict with the law.

(a) **Measures in force**

(i) **Paragraph 1 (basic principles)**

316. The Declaration of Principle in the *Young Offenders Act* recognizes in section 3 (e) that "young persons have rights and freedoms in their own right, including those stated in the *Canadian Charter of Rights and Freedoms* ... and young persons should have special guarantees of their rights and freedoms". Section 3 (a) states that "while young persons should not in all instances be held accountable in the same manner or suffer the same consequences for their behaviour as adults, young persons who commit offences should none the less bear responsibility for their contraventions". See also paragraph 68.

(ii) **Paragraph 2 (a) (retroactivity)**

317. Section 11 (g) of the *Canadian Charter of Rights and Freedoms* guarantees the right set forth in paragraph 2 (a) of the Convention.

(iii) **Paragraph 2 (b) (i) (presumption of innocence)**

318. Section 11 (d) of the Charter guarantees the right set forth in paragraph 2 (b) (i) of the Convention. The purpose of section 11 (d) is to

ensure that no one is held responsible for a criminal offence where there is a reasonable doubt of guilt. Thus, an offence violates section 11 (d) if it imposes a burden of evidence on the accused or standard of proof that does not respect this principle (The Queen v. Oakes, Vaillancourt v. R. and R. v. Keegstra).

(iv) Paragraph 2 (b) (ii) (informed of charges, legal assistance)

319. Section 11 (a) of the Charter provides that everyone charged with an offence has the right to be informed without unreasonable delay of the specific offence. In addition, pursuant to section 10 (b) of the Charter, upon arrest or detention everyone has the right to retain and instruct counsel without delay and to be informed of that right. According to section 11 of the *Young Offenders Act*, a young person has the right to retain and instruct counsel without delay. Section 11 (4) of the Act requires that provision be made for counsel, by way of legal aid or court appointment, where the young person wishes to obtain counsel but is unable to do so.

(v) Paragraph 2 (b) (iii) (fair hearing)

320. Section 7 of the Charter guarantees everyone the right not to be deprived of security of the person except in accordance with the principles of fundamental justice. Section 11 (b) of the Charter provides for the right to be tried in a reasonable time. Section 11 (d) of the Charter provides that everyone has the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal. For more detailed information on these Charter safeguards, see Canada's Second and Third Reports on the *International Covenant on Civil and Political Rights*. See also paragraph 327.

321. Section 9 of the *Young Offenders Act* provides parents with the opportunity to be present at the hearing. Section 10 enables the youth court to order their attendance if it is necessary or in the best interests of the youth. Section 11 of the Act ensures that a young person may have the assistance of counsel at the hearing.

(vi) Paragraph 2 (b) (iv) (right not to be a witness and to examine witnesses)

322. Section 11 (c) of the Charter guarantees everyone charged with an offence the right not to be a witness in proceedings against that person regarding the offence. Section 11 (d) (fair and public hearing) of the Charter has been interpreted to include the right to present and examine witnesses (Davidson v. R.). Section 7 of the Charter, on the right not to be deprived of life, liberty or security of the person except in accordance with the principles of fundamental justice, has been interpreted to include the right to make full answer and defence and to examine and cross-examine witnesses (Reference re. sect. 94 (2) of the *Motor Vehicle Act*).

(vii) Paragraph 2 (b) (v) (review of decision and disposition)

323. Section 27 of the *Young Offenders Act* provides for a right of appeal from findings of guilt or dispositions by a youth court.

(viii) Paragraph 2 (b) (vi) (right to interpreter)

324. Section 14 of the *Canadian Charter of Rights and Freedoms* provides that a party in any proceeding has the right to an interpreter if he or she does not understand or speak the language in which the proceedings are conducted. The interpreter is provided by the court, without charge to the party.

(ix) Paragraph 2 (b) (vii) (privacy)

325. Section 38 of the *Young Offenders Act* prohibits the publication of a report of an offence committed or alleged to have been committed by a young person which discloses the name of, or information sufficient to identify, the young person. In Southam Inc. v. the Queen the Ontario High Court of Justice held that section 38 involves a reasonable limit on freedom of expression as guaranteed by section 2 (b) of the *Canadian Charter of Rights and Freedoms* (appeal dismissed by Ontario Court of Appeal; leave to appeal refused by Supreme Court of Canada). The Court stated as follows:

> "[T]he protection and rehabilitation of young people involved in the criminal justice system is a social value of the 'superordinate importance' which justifies the abrogation of fundamental freedom of expression, including freedom of the press (pp. 698-99)."

326. The issue of the extent of the ban on publication of information relating to young offenders is under review by the Government of Canada.

(x) Paragraph 3 (a) (minimum age of criminal responsibility)

327. Section 13 of the *Criminal Code* provides that "[n]o person shall be convicted of an offence in respect of an act or omission on his part while that person was under the age of 12 years". See also paragraphs 51 and 52.

(xi) Paragraph 3 (b) (alternative measures to judicial proceedings)

328. The Declaration of Principle in the *Young Offenders Act* states in section 3 (e) that "where it is not inconsistent with the protection of society, taking no measures or taking measures other than judicial proceedings under this Act should be considered for dealing with young persons who have committed offences". Furthermore, section 4 of the Act provides that alternative measures may be used to deal with a young person alleged to have committed an offence instead of judicial proceedings, where such alternative measures are part of a programme authorized by the Attorney General of the province in question, and furthermore are appropriate for the particular young person, in light of a number of factors set out in section 4.

(xii) Paragraph 4 (variety of dispositions)

329. Section 20 of the *Young Offenders Act* provides for a variety of dispositions for young persons found guilty of an offence, including absolute discharges, fines, payment of compensation or restitution, performance of community services, detention for treatment, probation and custody. The Declaration of Principle in section 3 of the Act sets out the relevant

considerations for determining the appropriate disposition for a particular offender, in a manner consistent with paragraph 4 of article 40. See also paragraphs 381 and 382.

(b) **Factors, difficulties and progress**

330. The Government of Canada recognizes that there is a need for more data on children involved in the criminal justice system, and will consider measures to meet this need.

331. Children involved in the penal system and their families need to be better informed of their rights within the criminal process. They also need to be made aware of their right pursuant to Article 40 (1) of the Convention to be treated in a manner which promotes the child's sense of dignity and worth. This is particularly the case for Aboriginal and visible minority children. The Government of Canada will consider measures to ensure that all children involved in the criminal justice system and their families are conscious of their rights.

332. The Government of Canada recognizes that Aboriginal people in Canada, including children, are involved with the criminal justice system to an unacceptable degree. Inquiries into this have pointed to a variety of reasons. Current actions taken to try to deal with some of the problems include cross-cultural training of law-enforcement officers, inclusion of Aboriginal elders in decisions on sentencing, and funding for Aboriginal justice reform.

2. **Children deprived of their liberty: article 37 (b), (c) and (d)**

(a) **Measures in force**

(i) **Paragraph (b) (arbitrary detention)**

333. Section 9 of the *Canadian Charter of Rights and Freedoms* guarantees everyone the right not to be arbitrarily detained or imprisoned.

334. The Declaration of Principle in the *Young Offenders Act* states in section 3 (f) that "in the application of this Act, the rights and freedoms of young persons include a right to the least possible interference with freedom that is consistent with the protection of society, having regard to the needs of young persons and the interests of their families".

335. As indicated in paragraph 329 above, alternatives to custody are provided for those found guilty under the *Young Offenders Act*. Furthermore, pursuant to sections 24-24.2 of the Act, custody may be "open custody"; that is, in a community residential centre, group home, child care institution, forestry or wilderness camp or other like facility. According to the Act, custody (open or secure) should be ordered only when it is necessary for the protection of society, having regard to such factors as the seriousness of the offence. The longest period of custody that can be ordered under the *Young Offenders Act* is three years for conviction in youth court for murder (with a possible extension, upon application, to five years).

336. Pursuant to section 28 of the *Young Offenders Act*, where a disposition of over one year of custody has been ordered, at the end of the first year the disposition shall be reviewed to determine whether it may be varied. Upon application after six months of custody, or with leave at an earlier time, the disposition may be reviewed if there has been a change of circumstances.

(ii) Paragraph (c) (separate detention of young offenders)

337. As indicated below, for the most part young offenders in Canada are held separately from adults. However, upon ratification of the present Convention, Canada entered a reservation to article 37 (c) to ensure that, in determining the custodial arrangements for a young offender, the well-being of other young offenders and the safety of the public may be taken into account.

338. Young persons who receive a disposition of custody pursuant to the *Young Offenders Act* are held in provincial places of detention separately from adults. Paragraphs 339 to 341 indicate the limited circumstances in which young persons involved in the youth justice system may not be held separately from adults.

339. Pursuant to section 7 (2) of the *Young Offenders Act* a young person shall be held, prior to the disposition of his case, separately from adults unless, having regard to his safety or the safety of others, it would not be appropriate to do so, or there is no place of detention for young persons available within a reasonable distance.

340. Pursuant to section 13 (3) of the *Young Offenders Act* a youth court may remand a young person who is being examined to such custody as it directs (including with adults) for up to 8 days (or, in certain circumstances, up to 30 days). This provision is currently under review.

341. Pursuant to section 16 (1.1) of the *Young Offenders Act*, a young person over 14 years of age who is alleged to have committed a serious offence will be transferred to adult court if the objectives of the protection of the public and rehabilitation of the young person cannot be reconciled by the youth remaining in the juvenile system; protection of the public is the paramount consideration. Pursuant to section 16.1 of the *Young Offenders Act*, pending trial a transferred youth shall be held separately from adults unless, having regard to the best interests of the young person and the safety of others, a court determines otherwise.

342. If a young person who has been transferred to adult court is then convicted under the *Criminal Code*, section 16.2 of the *Young Offenders Act* requires the court specifically to consider the issue of his or her placement, and decide whether the youth should be placed in a youth or an adult facility. The court must take into account a number of factors, including the safety of the young person, the safety of the public, and the appropriateness of treatment, education and other resources. At present there is only one person under the age of 18 years in the federal penitentiary system.

343. Young persons who are in a federal penitentiary are subject to the *Corrections and Conditional Releases Act* in the same manner as adult inmates. Pursuant to section 31 of the Act, an inmate may be held in administrative

segregation from other inmates only if it is necessary for reasons of security or safety, including the safety of the inmate in question.

344. According to section 3 of the *Corrections and Conditional Release Act*, the purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society by ensuring the safety and humane custody of offenders, and assisting in their rehabilitation and reintegration into the community as law-abiding citizens. Pursuant to section 28, a relevant consideration in assigning an offender to a particular penitentiary is its accessibility to the person's home community and family. Pursuant to section 71, an inmate is entitled to have reasonable contact, including visits and correspondence, with family and friends, subject to reasonable limits regarding safety and security.

345. As indicated in paragraph 49, persons 16 and 17 years of age may, with parental consent, enrol in the Canadian Forces. Under certain circumstances, they would then be subject to provisions of the *National Defence Act* and dealt with under military law, which is not affected by the *Young Offenders Act*. Although the *National Defence Act* does not specifically require that service members 16 or 17 years old be held in separate detention facilities, as a matter of practice, and to the extent that existing facilities permit, such service members are held separately.

(iii) **Paragraph (d) (legal assistance)**

346. Section 10 of the *Canadian Charter of Rights and Freedoms* guarantees everyone the right on arrest or detention to retain and instruct counsel without delay, and to have the validity of the detention determined by way of *habeas corpus*. Petitions of *habeas corpus* are dealt with expeditiously in the Canadian legal system.

347. In R. v. G. (J.M.), referred to in paragraph 120, the Ontario Court of Appeal held that the school principal who removed drugs from a student's socks had not contravened section 10 of the Charter in not informing the student of his right to retain counsel, because there was no "detention" within the terms of section 10. Rather, in the view of the Court, the principal was performing his duty to maintain proper order and discipline as required under the *Education Act*.

(b) **Factors, difficulties and progress**

348. Prior to 1992 transferred youth were not held separately from adults pending trial, and if sentenced to life imprisonment were not eligible for parole for 10 (second degree murder) or 25 (first degree murder) years. In amending the *Young Offenders Act* as described above in paragraphs 341 and 342, consideration was given to the requirements of the *Convention on the Rights of the Child*.

349. The *Young Offenders Act*, which was enacted in 1984, is a progressive piece of legislation. There is, however, increasing public pressure for the introduction of more onerous sentences for young offenders who have committed serious offences or who are repeat offenders. This is in part due to the public perception that there is an increasing level of violent crime on the part of young people, and that lenient sentences are contributing to

recidivism. The 1992 amendments to the *Young Offenders Act* regarding transfers to adult court to some extent reflected this concern (see para. 341).

350. At present in Canada there are a disproportionate number of visible minorities and Aboriginal children who are brought into the youth justice system and sentenced to custody.

3. Sentencing of Young Persons: article 37 (a)

Measures in force

351. In the Canadian criminal justice system the most serious penalty that can be imposed on youths is a sentence of life imprisonment, with eligibility for parole within 5 to 10 years. This penalty can be imposed only where the youth has been transferred to adult court in accordance with relevant provisions of the *Young Offenders Act* (see para. 342 above), and then convicted of first or second degree murder pursuant to the *Criminal Code*.

352. Pursuant to section 139 of the *National Defence Act* one of the punishments that can be imposed on members of the Canadian Forces for service offences is the death penalty. As indicated in paragraph 49 above, persons who are 16 or 17 years of age may join the Canadian Forces with parental consent, and therefore it is theoretically possible that the death penalty would be imposed on them. However, according to section 206 of the *National Defence Act* the death penalty may only be imposed with the approval of the Governor-in-Council. Furthermore, no death penalties have been imposed under the *National Defence Act* since 1945.

C. Children in situations of exploitation

1. Article 32 (economic exploitation)

Measures in force

353. Section 179 of the *Canada Labour Code*, in conjunction with the regulations enacted pursuant to it, permits the employment at the federal level of persons under 17 years of age if the following conditions are met:

(a) The child is not required under the law of the province where he or she resides to be in attendance at school;

(b) The work is not underground in a mine nor as an atomic energy worker;

(c) It is not work prohibited for young workers under the Explosives Regulations or the *Canada Shipping Act*;

(d) It is not likely to be injurious to the child's health nor to endanger his or her safety; and

(e) The work is not carried out between 11.00 p.m. of one day and 6.00 a.m. of the next day.

354. Pursuant to section 256 (1) of the *Canada Labour Code*, any employer who contravenes section 179 of the Code is guilty of a summary conviction offence and liable to a fine not exceeding $5,000.

355. In 1992 the basic minimum wage for persons under the age of 17 years was $4.00 an hour, the same rate as for other persons.

356. The *Canada Labour Code* also deals with such matters as standard hours of work, vacations and holidays, sick leave, sexual harassment and safety and health matters. These standards apply to children as well as adults.

2. Article 33 (drug abuse)

(a) Measures in force

357. The *Food and Drugs Act* and the *Narcotic Control Act*, which apply to children as well as adults, provide the general framework for controlling drugs in Canada. The *Food and Drugs Act* regulates the use of psychotropic substances such as amphetamines, barbiturates and hallucinogens, and includes provisions regarding enforcement and penalties. The *Narcotic Control Act* regulates the use of narcotic drugs such as opium, cocaine and marijuana.

358. In 1992 the Government of Canada allocated $270 million to a five-year renewal of Canada's Drug Strategy, which will focus on preventing drug use, especially among groups at risk, such as young children, high school drop-outs, street children and Aboriginal people living off reserve.

359. The age limit in the *Tobacco Restraint Act* is in the process of being raised from 16 to 18 years (see para. 50).

360. The Medical Services Branch of Health and Welfare Canada has established a Solvent Abuse Working Group and is conducting a National Survey on Solvent Abuse to determine the patterns of solvent abuse and the essential elements of solvent treatment for First Nations and Inuit children and youth. The survey results will contribute to recommendations for a National Strategy on Solvent Abuse Prevention and Treatment.

361. In 1992-93 the National Native Alcohol and Drug Abuse Programme (NNADAP) provided approximately $51 million for a variety of prevention, treatment, training and research programmes. The NNADAP is based on community participation at all stages of its development and implementation. At present approximately 380 Aboriginal communities receive prevention services, and there are 51 alcohol and drug residential treatment programmes, managed by Aboriginal communities, providing 730 client beds.

(b) Factors, difficulties and progress

362. In consultations with Aboriginal groups, it was pointed out that the circumstances of children who abuse drugs vary, and therefore global programmes to deal with drug abuse which apply to all children, regardless of their particular situation or locale, may not be effective.

(c) Priorities and goals

363. The Government of Canada proposes to introduce legislation that will treat drug dealing in and around schools and with minors as an "aggravating factor" in the commission of drug offences.

3. Article 34 (sexual abuse)

(a) Paragraph (a) (inducement)

364. According to section 152 of the *Criminal Code*, every person who, for a sexual purpose, invites, counsels or incites a child under the age of 14 years to engage in physical contact with that person, or another person, is guilty of a summary conviction offence.

(b) Paragraph (b) (exploitation)

365. According to section 151 of the *Criminal Code*, it is an indictable offence to touch a child under the age of 14 years for a sexual purpose. Furthermore, it is an indictable offence to do so with a child between the ages of 14 and 18 years, where the person is in a position of trust or authority over the child, or the child is his or her dependant (sect. 153). Pursuant to section 155, it is an indictable offence for a natural parent to have sexual intercourse with his or her child. Pursuant to section 153, every male person who has illicit sexual intercourse with his step-daughter, foster daughter or female ward is guilty of an indictable offence.

366. In R. v. L. (D.O.), the Supreme Court of Canada held that section 715.1 of the *Criminal Code*, which permits the use of videotaped evidence of complainants under the age of 18 years in sexual assault cases, was not contrary to section 7 (right not to be deprived of liberty except in accordance with the principles of justice) or section 11 (d) (presumption of innocence) of the *Canadian Charter of Rights and Freedoms*. In regard to the argument that the age limit of 18 years was arbitrary and therefore contrary to the Charter, the Court referred to articles 1, 19, and 34 of the Convention on the Rights of the Child to conclude that "it is in no way arbitrary and accordingly, it was perfectly acceptable for Parliament to draw the line where it did" (p. 465).

(c) Paragraph (c) (pornography)

367. Section 163 makes it a criminal offence to publish, distribute, have in one's possession, etc., any obscene material. A publication is deemed to be obscene if it has as its dominant characteristic the undue exploitation of sex, or of sex and any one or more of the following subjects: crime, horror, cruelty and violence.

368. In R. v. Butler the Supreme Court of Canada held that section 163 involved a reasonable limit on the guarantee of freedom of expression in section 2 (b) of the *Canadian Charter of Rights and Freedoms*. It stated that section 163 served the important purpose of protecting women and children from exploitation, which can lead to "abject and servile victimization".

369. As part of the Child Development Initiative referred to in paragraph 187 above, the Government of Canada introduced Bill C-128, an *Act to amend the Criminal Code and Customs Tariff* (child pornography and corrupting morals) to protect children from child pornography, sexual exploitation and harm. Bill C-128 defines child pornography to include photographic, film, video or other visual representations showing a person under the age of 18 years engaged in, or depicted as being engaged in, sexual activity. It also includes the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of 18 years. Bill C-128 creates new offences to prohibit the possession, production, importation, distribution and sale of child pornography. Written material or visual representation that advocates or counsels sexual activity with someone under the age of 18 years is an existing offence under the *Criminal Code*. The maximum sentences for existing offences are increased when they relate to child pornography. Bill C-128 was proclaimed as law on 1 August 1993.

4. Article 36 (other exploitation)

(a) Measures in force

370. In 1985 the Government of Canada established the Missing Children's Initiative, and in 1986 it created the Royal Canadian Mounted Police Missing Children's Registry. As of 1992, the Registry indicated that 93 per cent of missing children are runaways.

371. Runaway children are especially vulnerable to exploitation and abuse. As of 1992, it is estimated that there were 900 to 1,000 children living, working or both on the street in Ottawa, 8,000 to 10,000 in Toronto, and 6,000 to 8,000 in Winnipeg, with the latter including a disproportionate number of Aboriginal youth. Almost all runaways participate in illegal activities as a means of support, including shoplifting (44 per cent), stealing money (31 per cent) and prostitution (19 per cent).

372. In 1992 the Government of Canada allocated $5 million to a new programme to deal with Missing Children and Other Youth at Risk, which has as its mandate assisting police agencies to respond to the needs of those young people most at risk of being exploited, victimized or chronically involved with the criminal justice system. As part of this new programme, it allocated $3.7 million to increasing the effectiveness of the Missing Children's Registry, and $1.3 million for research and demonstration projects to enable police to play a more positive role in dealing with runaway children, other youth at risk and their families.

(b) Factors, difficulties and progress

373. The Government of Canada recognizes the complexity of dealing with the problem of runaway children and other children at risk, and the need for governmental intervention in this area.

374. In particular, the Government of Canada recognizes that there are many articles of the *Convention* relevant to the situation of children living or working or both on the street - for example, articles 19 (protection from abuse by those having care), 26 (social security), 28 to 29 (education), 32 to 34 (economic and sexual exploitation and drug abuse), 40 (penal law)

and 39 (recovery and reintegration). Therefore, it is necessary to adopt a comprehensive approach, which involves a more effective implementation of all these articles, in order to deal effectively with the problem of such children.

(c) Priorities and goals

375. With regard to measures that should be adopted to deal with runaway youth and other youth at risk, the Government of Canada has established the following priorities: forming partnerships amongst the various federal initiatives (such as the Family Violence Initiative, Canada Drug Strategy and Stay-in-School), regional offices, the police and non-governmental organizations; conducting research and disseminating information to the police community; evaluating the effectiveness of measures adopted; establishing programme priorities; and considering legislative reforms.

376. In regard to specific categories of runaway youth and other youth at risk, the Government of Canada has identified the following as having priority: children living or working or both on the street, youth gangs, juvenile prostitutes, children involved in pornography, children who belong to visible minorities or who are Aboriginal, children with disabilities and rural children.

5. Article 35 (prevention of sale)

(a) Measures in force

377. Sections 279 to 283 of the *Criminal Code* make the various forms of kidnapping and child abduction criminal offences. These offences include kidnapping (sect. 279), hostage taking (sect. 279.1), abduction of persons under the age of 16 years from their parents (sect. 280), abduction of persons under the age of 14 years from their parents (sect. 281), abduction by a parent in contravention of a custody order (sect. 282), and abduction by a parent where there is no custody order (sect. 283). See also paragraph 169.

378. Pursuant to section 212 of the *Criminal Code*, it is a criminal offence to procure or solicit a person for sexual intercourse or to become a prostitute, or to live on the avails of prostitution. From 1986 to 1989 young persons accounted for about 5 per cent of those charged with soliciting for the purpose of prostitution.

(b) Priorities and goals

379. As mentioned earlier in paragraph 167, Canada has been actively involved in the finalizing of the *Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption*, and is currently working toward its early ratification. One of the main objects of the *Hague Convention* is to "establish a system of cooperation amongst Contracting States to ensure that [safeguards regarding the best interests of children and their fundamental rights] are respected and thereby prevent the abduction, the sale of, or traffic in children".

D. Recovery and reintegration: article 39

1. Measures in force

380. As indicated in paragraph 123, social welfare agencies providing care to children, including care pertaining to recovery and reintegration, come primarily within provincial and territorial jurisdiction. See paragraphs 139, 189 to 191, 227, 239 and 240 for information on measures the Government of Canada has adopted regarding the mental health of children.

381. The Declaration of Principle in section 3 (1) (c) of the *Young Offenders Act* recognizes that "young persons, because of their state of dependency and level of development and maturity ... have special needs and require guidance and assistance". This principle is reflected in the entire process of dealing with young persons alleged to have committed offences under the Act. As to the treatment of young offenders in custody in youth facilities, such facilities are under the jurisdiction of the provinces and territories.

382. In R. v. M. (J.J.) the Supreme Court of Canada described the approach that the court should take in sentencing young offenders pursuant to the *Young Offenders Act* as follows:

> "Society must be concerned with the illegal acts of young people ... Yet there must be some flexibility in the dispositions imposed on [them]. It is not unreasonable to expect that in many cases carefully crafted dispositions will result in the reform and rehabilitation of the young offender. That must be the ultimate aim of all dispositions. They may often achieve this goal if the disposition is carefully tailored to meet both the need to protect society and to reform the offender."

383. Health and Welfare Canada has provided support for the Healing Conferences convened by Aboriginal peoples, including the "Healing Our Spirit Conference" at Poundmaker's Lodge in 1992 and the "Healing the Wounds of the Native Family Conference" convened in 1992 by the Native Mental Health Association.

2. Priorities and goals

384. The Government of Canada recognizes that further attention needs to be given to the adoption of measures to promote the recovery and reintegration of children who have been subjected to abuse and exploitation.

E. Children members of minorities and indigenous children: article 30

1. Measures in force

(a) Culture

385. At the request of national Aboriginal organizations, upon ratification of the present Convention Canada made a reservation to the effect that article 30 would have to be taken into account in implementing all of the articles of the Convention in matters relating to Aboriginal children.

386. Section 27 of the *Canadian Charter of Rights and Freedoms* provides that the Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

387. The *Canadian Multiculturalism Act* declares that it is part of the multiculturalism policy of the Government of Canada "to recognize and promote the understanding that multiculturalism is a fundamental characteristic of the Canadian heritage". Multiculturalism and Citizenship Canada has a Heritage Cultures and Languages Programme which makes the cultural heritage of children more accessible to them by supporting skill development in performing and visual arts, in writing and publication, and in theatre and film projects related to heritage activities. See also paragraphs 101 to 103.

388. According to section 25 of the *Canadian Charter of Rights and Freedoms*, the Charter should not be construed so as to abrogate or derogate from any Aboriginal, treaty or other rights or freedoms of Aboriginal peoples of Canada. Section 35 of the *Constitution Act, 1982* recognizes and affirms existing Aboriginal and treaty rights of the Aboriginal peoples of Canada. To date, these provisions have been interpreted by the courts to relate primarily to land and resource related rights of Aboriginal peoples (R. v. Sparrow, A.G. Ontario v. Bear Island Foundation et al. and Delgamuukw v. British Columbia). Aboriginal cultures reflect (among other things) the relationship of Aboriginal peoples with the land. These provisions serve to protect the right of Aboriginal children to enjoy those elements of their culture which are bound to the land (e.g. hunting and fishing). See also paragraphs 101, 103 and 110.

389. Indian and Northern Affairs Canada provides funding to 73 Aboriginal cultural and educational centres.

390. The Government of Canada has a policy to promote Aboriginal self-government. There are currently over 60 Community Self-Government Negotiations under way with Aboriginal communities across Canada. These negotiations encompass such matters as the administration of justice, the preservation and promotion of Aboriginal languages and cultures and the provision of educational, health and social services and child welfare. The successful conclusion of self-government arrangements would serve to ensure that Canada's statement of understanding regarding article 30 of the Convention is given practical effect.

(b) Language

391. The Constitution of Canada stipulates that English and French are the official languages of Canada, and that both languages have equality of status, rights and privileges as to their use in federal parliamentary and governmental institutions. At the provincial level, only New Brunswick has constitutionally recognized English and French as the official languages of provincial legislative and governmental functions, although other provinces are bound to certain constitutional obligations in respect of the use of English and French in the legislature and courts, and still others have enacted certain statutory protections.

392. Section 23 of the *Canadian Charter of Rights and Freedoms* accords to Canadian citizens the right to have their children educated in the minority

language (French or English) of the province where they reside at the primary and secondary levels, if one of the following conditions is met:

(a) the first and still understood language of the parent is the minority language (this criterion applies in all provinces except Quebec);

(b) the parent received his or her primary education in Canada in English or French and that is the language of the linguistic minority population of the province where he or she resides; or

(c) the parent already has a child who has received primary or secondary education in the language in question.

393. This right is subject to the proviso that it applies only where the number of children entitled to minority language education is sufficient to warrant providing such education out of public funds.

394. In Mahé et al. v. Attorney General of Alberta, the Supreme Court of Canada held that section 23 of the Charter is a remedial provision aimed at preserving and promoting the two official languages of Canada by ensuring that each language flourishes, as much as possible, in provinces where it is not spoken by the majority of the province. The Court also held that the right of minority language groups to manage and control their own educational facilities was vital to ensuring the flourishing of their language.

395. The preamble of the *Official Languages Act* states that the Government of Canada is committed to cooperating with provincial governments and their institutions to respect the constitutional guarantees of minority language educational rights and to enhance opportunities for all to learn both English and French. The Act, which is a federal statute, applies to the institutions of the Parliament and Government of Canada, and embodies the constitutional guarantees set out in sections 16-20 of the *Canadian Charter of Rights and Freedoms* respecting the equality of status of English and French with respect to their use in federal institutions and in services offered to the public by those institutions. Part VII of the Act, dealing with the advancement of English and French within Canadian society, includes measures to promote and encourage federal-provincial cooperation in this area, notably with respect to minority language and second language education.

396. The *Canadian Multiculturalism Act* declares that it is part of the multiculturalism policy of the Government of Canada "to preserve and enhance the use of languages other than English and French, while strengthening the status and use of the official languages of Canada". The Heritage Cultures and Languages Programme of Multiculturalism and Citizenship Canada funds projects to develop expertise and teaching materials for heritage language classes, to engage in research and to promote heritage language learning. It also supports the sharing of resource materials among heritage language schools and communities.

397. The Government of Canada has, through agreements with all provinces and territories, funded English and French minority language and second language education, with a budget allocation of $235.2 million for 1993-94 for this purpose. The Government of Canada has concluded a Cooperation Agreement on French and Aboriginal Languages with the Government of the Northwest

Territories. This agreement provides funding for the expansion of government services in French and Aboriginal languages and supports community based activities to develop, maintain and enhance these languages ($9.8 million for 1993-94).

398. The Government of Canada has also concluded the Canada-Yukon Language Agreement with the Government of the Yukon, which provides funding for the protection and enhancement of French and Aboriginal language rights and services in the Yukon ($2.89 million in 1993-94). Further to Part VII of the *Official Languages Act* (section 43), the Government of Canada has concluded agreements for the promotion of the official languages with eight provinces to support the development of English and French linguistic minority communities ($7.48 million in 1993-94).

399. At present 63 per cent of Indian elementary and secondary students living on reserve or Crown lands receive instruction in an Aboriginal language.

(c) **Religion**

400. See paragraphs 111 to 114 on the guarantee of freedom of religion in the *Canadian Charter of Rights and Freedoms*. In R. v. Big M Drug Mart the Supreme Court of Canada emphasized its role in "safeguard[ing] religious minorities from the threat of the tyranny of the majority" (p. 337).

401. Multiculturalism and Citizenship Canada supports activities which promote tolerance and understanding amongst the various religions in Canada, including the development of written, film and other media materials to increase public awareness of similarities among religions, and the holding of interfaith seminars.

2. Factors, difficulties and progress

402. The Mahé decision referred to in paragraph 394 is still being implemented in several provinces and requires amendments to existing provincial legislation. The Government of Canada is continuing to cooperate with all provincial and territorial governments in the area of minority language education. It has approved the renewal of funding for programmes in this regard as well as additional funding for the implementation of the Mahé decision.

403. In 1992 the Government of Canada intervened before the Supreme Court of Canada in the Manitoba Minority Language Education Rights Reference to support a purposive interpretation of section 23 of the Charter and the application of the principles of Mahé. In its decision of March 1993 the Supreme Court clarified and reinforced the principles set out in Mahé, stating that the general right of instruction also includes the right to a distinct physical setting and facilities, and applying the general principles respecting minority management and control of those facilities in the Manitoba context. Manitoba, Alberta and Saskatchewan have enacted new legislation designed to conform with section 23 of the Charter and the Supreme Court ruling.

3. Priorities and goals

404. It is a priority of the Government of Canada to provide to official language minorities equal access to programmes of equal quality.

405. In regard to Aboriginal children and children belonging to minorities, special care needs to be taken (including the adoption of selection and training measures) to ensure that child-care workers, teachers, law enforcement officials and other persons dealing with them do so in a culturally sensitive manner.

406. It is a goal of the Government of Canada, in accordance with the statement of understanding regarding article 30 made upon ratifying the Convention, to ensure that greater attention is given, in the various matters over which it has jurisdiction, to the cultural, religious and linguistic needs of Aboriginal children.

Part Two

MEASURES ADOPTED BY PROVINCIAL AND TERRITORIAL GOVERNMENTS

I. BRITISH COLUMBIA

407. This report mainly covers the period from 13 January 1992 to 13 July 1993. With the exception of articles 21 and 37 (c) for which Canada entered statements of reservation, British Columbia was in compliance with the Convention at the time of ratification.

A. General measures

408. In July 1993, pursuant to article 4 of the Convention, British Columbia's Ministry of Social Services presented a White Paper on the *Child, Family and Community Service Act*. The purpose of this White Paper was to seek input on issues pertaining to children prior to drafting legislation. The *Convention on the Rights of the Child* was used as one of the reference documents in drafting the White Paper.

409. Pursuant to article 42 of the Convention, "to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike", the School of Child and Youth Care (University of Victoria), and the British Columbia office of the Ombudsman are organizing a 1994 international conference to be held in Victoria. The theme of the conference is the United Nations *Convention on the Rights of the Child* and a number of defined areas which can, will or should be directly influenced by its ratification.

410. Pursuant to article 44, paragraph 6 of the Convention, "to make their reports widely available to the public at large", Canada's reports to the United Nations Committee on the Rights of the Child will be distributed to relevant government and non-government agencies, as are all reports regarding Canada's compliance with other international human rights instruments.

B. Definition of the child

411. The age of attainment of majority and of the legal minimum ages established for various purposes is as follows:

(a) Legal or medical counselling without parental consent (19);

(b) End of compulsory education (16);

(c) Part-time employment (15);

(d) Full-time employment (15);

(e) Hazardous employment (15);

(f) Sexual consent (with other minors) (14);

(g) Marriage (16);

(h) Voluntarily giving testimony in court (subject to ability);

(i) Criminal liability (12);

(j) Deprivation of liberty (youth detention centres) (12);

(k) Imprisonment (as a rule) (18);

(l) Imprisonment (exceptionally, for very serious offences) (14);

(m) Consumption of alcohol (19).

C. General principles

1. Non-discrimination (art. 2)

412. The existing *Family and Child Service Act* and the planned replacement, the *Child, Family and Community Service Act*, apply to all children in the province.

2. Best interest of the child, the right to life, survival and development and respect for the views of the child (arts. 3, 6 and 12)

413. The White Paper on *Child, Family and Community Service Act* states

"For the purposes of the proposed legislation, the best interests of the child must be considered in the administration and interpretation of the new legislation. The child's best interests will be determined by considering many aspects of the child's needs, including:

the safety of the child

the child's physical, mental, emotional and psychological needs

the importance of continuity in the child's care and the possible effect on the child of disrupting that continuity

the quality of the relationship the child has with any person and the importance of maintaining that relationship

the risk that the child may be harmed if removed or kept away from a parent or if returned to or left in the care of a parent

the child's physical, mental, emotional and psychological level of development

the merits of a plan for the child's care compared with the merits of leaving the child with a parent or returning the child to a parent

the child's views and wishes

the effect on the child of delaying in making a decision".

414. Because the cultural identity of Aboriginal children should be preserved, when a decision is made in the best interests of an Aboriginal child to place the child anywhere outside that child's immediate family home, priority shall be given to placing that child with the child's extended family, within the child's Aboriginal cultural community, or with another Aboriginal family.

D. Civil rights and freedoms

1. Name and nationality and preservation of identity (arts. 7 and 8)

415. While the Convention's provisions regarding name and nationality and preservation of identity are not specifically dealt with in British Columbia's existing or planned legislation, these principles are followed as a matter of practice and policy in those extraordinary situations in which the Ministry of Social Services would become involved, for example, when a child was abandoned or relinquished at birth for adoption without having been given a name.

2. The right not be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

416. The White Paper on *Child, Family and Community Services Act*, states in section 14 that:

> "The existing Act defines when a child is in need of protection in relatively general terms and has the effect of giving broad discretionary powers to the court and the ministry. By defining when a child is in need of protective services more specifically, the new legislation will provide more certainty about the circumstances in which the ministry can intervene. These circumstances may include:
>
> the child has been, or is in danger of being, physically harmed by the child's parent, or because of the parent's failure to supervise and protect the child
>
> the child has been, or is in danger of being, sexually abused or exploited by another person and the parent is unable or unwilling to protect the child
>
> the child has been deprived of necessary health care and the child's parent does not provide or cannot consent to treatment
>
> the child has been chronically and seriously neglected
>
> the child's parent is unavailable to care for the child and has not made adequate provision for the child's care
>
> the child has been abandoned
>
> the child is in the care of the director or another person by voluntary agreement and the child's parent refuses, or is unable, to resume care".

E. Family environment and alternative care

1. Parent guidance, parental responsibilities, and separation from parents (arts. 5, 18, paras. 1-20, and 9)

417. Parental responsibilities and separation from parents are addressed in the Guiding Principles and Best Interests sections of the White Paper on *Child, Family and Community Services Act*. They are also addressed throughout the White Paper in the sections dealing with supportive service and again, in establishing the planning priorities when an intervention by the State is required.

2. Family reunification (art. 10)

418. While this question is not specifically addressed in the White Paper on *Child, Family and Community Services Act*, the right of children and their parents to leave any country and to enter their own for purposes of reunion or of maintenance of the child-parent relationship is implicit in statements which emphasize planning within the context of the extended family.

3. Recovery of maintenance for the child (art. 27, para. 4)

419. Provisions for the recovery of maintenance for children are already in place within the *Family and Child Service Act*. This issue is also addressed in the White Paper on *Child, Family and Community Services Act*: "A parent's financial responsibility may continue when a child is in care by court order. The court may order a parent to pay the director a reasonable amount for the maintenance of a child. When making a maintenance order, the court must take into account the economic circumstances of the parent the needs and general circumstances of the child any legal right of the child to receive support from another source, and any other circumstance the court considers relevant. Maintenance may be changed or cancelled based on a change of circumstances."

4. Children deprived of a family environment (art. 20)

420. Current provincial legislation provides for the protection of a child temporarily or permanently deprived of his or her family environment, or in whose best interests cannot be allowed to remain in that environment. Under such circumstances, the Ministry of Social Services is responsible for alternative care, including foster placement or if necessary, placement in suitable institutions for the care of children.

5. Adoption (art. 21)

421. Adoption services are carried out under the legislative authority of the *Adoption Act*. There are problems, however, particularly in the area of private adoptions, which are currently unregulated. Plans are under way to replace the existing *Adoption Act*. The issue of private adoptions and the provision of necessary safeguards will be dealt with at that time.

6. Illicit transfer and non-return (art. 11)

422. The Ministry of Social Services works with the appropriate authorities at the provincial, national and international level to prevent and remedy the

kidnapping or retention of children abroad by a parent or third party in cases involving children where the Ministry has some form of jurisdiction.

7. Abuse and neglect (art. 19)

423. The proposed *Child, Family and Community Services Act* is intended specifically to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

8. Periodic review of placement (art. 25)

424. Current policy of the Ministry of Social Services and the proposed *Child, Family and Community Services Act* provide for periodic review of placement for children in care.

F. Basic health and welfare

1. Survival and development (art. 6)

425. See response to General Principles.

2. Disabled children (art. 23)

426. The British Columbia Ministry of Education's Ministerial Order 150/189 provides that a board shall ensure that an administrative officer offers to consult with a parent of a handicapped student regarding the placement of that student in an educational programme, and that, unless the educational needs of a handicapped student indicate that the student's educational programme should be provided otherwise, a board shall provide that student with an educational programme in classrooms where that student is integrated with other students who do not have handicaps.

3. Social security and child care services and facilities (arts. 26 and 18, para. 3)

427. The *GAIN* (Guaranteed Available Income for Need) legislation provides for social services for children of eligible parents.

4. Standard of living (art. 27, paras. 1-3)

428. The *GAIN* legislation provides for income security benefits for children of eligible parents.

G. Education, leisure and cultural activities

1. Educational, including vocational training and guidance (art. 28)

429. Section 2 of the *School Act* states that "a person who is of school age, and who is resident in a school district is entitled to enrol in an educational programme provided by the board of that school district".

430. Section 3 of the *School Act* states that "a person who is a resident of British Columbia shall enrol in an educational programme provided by a board on the first school day of September of a school year if, on or before December 31 of that school year, the person will have attained the age of 5 years; and participate in an educational programme provided by a board until he or she attains the age of 16 years".

431. "Free" schooling is not mentioned in the Act, but public schooling is provided by the State and paid for through the general revenue.

432. All students in British Columbia have access to programmes that lead to graduation. Different types of programmes are available to accommodate differences in students' physical and mental abilities, as well as their geographical location. They also allow for alternatives within and outside the public school system.

2. Aims of education

433. The purpose of the British Columbia school system is to enable all students to develop their individual potential and to acquire the knowledge, skills, and attitudes needed to contribute to a healthy, democratic and pluralistic society, and prosperous and sustainable economy.

H. Special protection measures

Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37)

434. The right to maintain contact with family members is guaranteed by the Youth Correctional Programme Regulations (OIC, #3730), made pursuant to the *Corrections Act*, specifically, articles 17, 18, and 19 of those regulations.

II. ALBERTA

435. On 11 December 1991, the Government of Canada ratified the United Nations *Convention on the Rights of the Child*. The province of Alberta did not formally support this ratification, due to concerns on the part of a number of provincial legislators as to the perceived implications of the Convention on parental rights. It is however the position of the Government of Alberta that, subsequent to the amendment of several laws in 1991 which brought these laws into accord with the *Canadian Charter of Rights and Freedoms*, Alberta's legislation and practices now conform to the Convention.

436. As Alberta did not formally support the Convention, the present report has been prepared by the federal government with information provided by Alberta authorities. This report reviews Alberta government policies, programmes, and legislation to indicate the degree to which the province conforms to the spirit and the text of the Convention. It also includes information on non-provincial government and community agencies and their efforts to promote the Convention.

A. General measures of implementation

437. In Alberta, a legal framework is in place to ensure that the best interests of the child are respected and that, to the greatest extent possible, the child has the protection and support to thrive and to reach adulthood as a contributing member of society. This framework consists of legislation that protects children's civil and political rights as well as economic, cultural and social rights.

438. Programmes and policies that flow from legislation further strengthen the framework of child protection. For example, the Government provides services, both pre- and post-natal, with the intent of ensuring low infant and maternal mortality rates.

439. The Alberta Government provides funds for two agencies that protect or improve the place of children in Alberta society. The Alberta Children's Advocate, the only such office in Canada, was created by the *Child Welfare Amendment Act*, (1988) which established the concept of advocacy on behalf of children as an integral, legitimate and distinct component of Alberta's Child Welfare System. While parents are recognized as the best advocates for their children, those children who are receiving protection services also have access to the Children's Advocate. The mandate of the Children's Advocate is to represent the rights, interests and viewpoints of children receiving services under the *Child Welfare Act*, to investigate complaints with respect to provision of child welfare services, and to provide advice and recommendations to the Minister with respect to Alberta's child welfare system.

440. The Children's Advocate ensures that the focus of service remains on the child. The office ensures that the procedural rights, including initiation of court and appeal panel reviews, and the right to consent to certain decisions such as adoption and visiting rights, among others, are respected and that the child's right to be heard is protected. The Advocate provides services to children who are the subjects of support, custody and permanent guardianship agreements, are under apprehension, are the subject of interim care orders, and are the subjects of an agreement or court order. The Children's Advocate can only intervene if invited by the child to advocate on his or her behalf.

441. The Premier's Council in Support of Alberta Families was established to ensure that policies and programmes of the Alberta Government are put in place with due consideration to their effect on Alberta families. An example of the Council's influence is the family policy grid, against which government departments are asked to measure their programmes and policies.

442. A major development in the provision of services to children was the establishment of the Coordination of Services for Children Initiative. This initiative involves a committee composed of the assistant deputy ministers of the departments of Family and Social Services, Health, Education and Justice. The purpose of the committee is to find better ways of providing services to children and families. It seeks to remove duplication and to fill gaps in services. The Committee recognizes the importance of community and community agency involvement. Consequently, an early phase of the committee's work is a partnership with five communities to find ways to improve services for children and families. Although communities are at different stages of

development, the committee has held planning sessions which have enabled it to identify community needs and create an action plan. As the process continues, the committee will look at issues that have been identified by the communities, and will work with them on solutions.

443. The Government has recently appointed a Commissioner of Services to Children. This position has as its mandate a review of the structure of children's services in Government and to recommend alternate structures to improve services generally.

444. In addition to government support, there are over 2,000 private agencies and organizations in Alberta that serve the needs of children and families. These agencies are largely funded by Government and, in addition to providing support, also advocate on behalf of children and families.

B. Definition of the child

445. The *Child Welfare Act* in Section 1(d) defines a child as "a person under the age of 18 years". This definition applies to the child welfare system. Different ages apply in different situations.

446. No person below the age of 18 may vote in any election, referendum or plebiscite. A person may marry without parental consent at the age of 18 or at age 16 with parental consent. No one may marry under the age of 16 except females who are pregnant or already mothers. The age of sexual consent is 18. No person under the age of 18 years may legally purchase alcohol.

447. At age 16 a person is no longer required to attend school. At age 16 a person may acquire a driver's licence. At age 15 a limited driver's licence may be issued, but requires the presence of a driver over 16 years of age. An individual may work at age 15 years and older without parental consent.

448. Children are not generally allowed to work before the age of 15, although some exceptions exist. Under the *Employment Standards Act*, a person may be employed at age 15 to work between 6 a.m. and midnight without parental consent; younger persons require parental consent for any employment.

C. General principles

1. Non-discrimination (art. 2)

449. Several Alberta statutes contain clauses that prevent discrimination against children. The *Parentage and Maintenance Act* provides means for obtaining maintenance for children of unmarried parents.

2. Best interests of the child (art. 3)

450. The "best interests of the child" are central to the child welfare system in Alberta. Section 2 of *The Child Welfare Act* states:

> "2 (d). A Court and all persons shall exercise any authority or make decision relating to a child who is in need of protective services under this Act in the best interests of the child..."

451. "Best interest" is the test for making decisions relating to a child who is in need of protective services under the *Child Welfare Act*. The Children's Advocate ensures that the best interest of the child is the primary consideration in all decisions relating to the child.

3. Right to life, survival and development (art. 6)

452. The Alberta Government recognizes the inherent right to life of all its citizens. Alberta policies in relation to foetal growth and development, as well as newborn care, reflect this philosophy.

4. Respect for the views of the child (art. 12)

453. In matters affecting the removal of a child from his or her family and placement in alternate care, the *Child Welfare Act* ensures that the child be consulted:

> "2 (d) a child, if the child is capable of forming an opinion, is entitled to an opportunity to express that opinion on matters affecting the child and the child's opinion should be considered by those making decisions that affect the child."

454. In legal matters affecting the child, the courts have held that 12 years is the age at which children are capable of giving reasoned views. A child over 12 years old must be consulted and his or her opinion given considerable weight. The children's guardian will provide representation for the child and ensure that the views of the child are expressed. When children are receiving protective services from the state, the Children's Advocate has a mandate to ensure, through his or her intervention, that the child's right to be heard is respected.

D. Civil rights and freedoms

1. Name and nationality (art. 7)

455. All children are required by the *Vital Statistics Act* to be registered within 10 days of birth (section 3). This legislation also protects the right of a child to the name of his or her mother or father or a combination of the two. The legislation applies to children born out of wedlock.

456. As already mentioned, the Government does not intervene in the parent-child relationship unless it has concerns about the continued health and safety of the child.

2. Preservation of identity (art. 8)

457. In decisions concerning care for the child, the *Child Welfare Act* provides that any decision concerning the removal of a child from the child's family should take into account the benefits to the child of maintaining, wherever possible, the child's familial, cultural social and religious heritage (section 2(f)(i)); similarly, any decision concerning the placement of a child outside the child's family should take into account the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage (section 2(h)(i)). When a child has been placed in

protective care, the Act states that a person who assumes responsibility for the care of a child under this Act should endeavour to make the child aware of the child's familial, cultural, social and religious heritage (section 2(1)).

458. The *Change of Name Act* contains restrictions on who may change a child's name and conditions on how that change might occur. Application may only be made by a person over 18 years of age. Application may not be made to change the name of a child who is 12 years of age or older without the consent of that child. If the child is under 12 years of age, the changes must be requested by the mother, father or legal guardian and are restricted to the surname of the mother, father or legal guardian.

459. In some cases children are given to the state at birth and are adopted through a governmental process. In that case, the child assumes the name of the adoptive parents. The Alberta Government provides for adopted children to be reunited with their birth parent(s) through a passive registry. The adoptive person and the biological parent can both register, in which event they can be reunited using the information in the registry. However, the system is voluntary, and if one of the parties does not agree, reunification is not possible. A consultation is under way to review the system and seek ways to increase access to information on adoptions to the interested parties. One concern in this regard is finding the appropriate balance of the right to privacy and the right to know one's biological parents or to find offspring given up for adoption.

3. Access to appropriate information (art. 17)

460. The Alberta Government supports an educational television network, the ACCESS Network. ACCESS has as part of its mandate to provide educational programming of high quality. The network is funded by Government lottery proceeds and private donations.

461. The Citizenship and Heritage Secretariat sponsors awards for authors who promote a respect and understanding of the multicultural nature of our society. The Secretariat has presented plaques and held awards dinners to recognize these authors.

4. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

462. The Government is concerned that children removed from an abusive or neglectful family environment not then be further subjected to the same treatment from which he or she has been removed. To this end, the Government introduced the "Child Management Policy" in July 1993. This policy is directed to foster parents and defines the main tasks of child management. Most importantly, the policy prohibits the use of physical discipline in foster homes. The policy sets down principles governing discipline and lists the types of disciplinary measures that are appropriate for foster care. Extensive education and support are available to foster parents as alternatives to physical discipline.

E. Family environment and alternate care

1. Parental guidance (art. 5)

463. The Alberta Government recognizes that parents are the primary care-givers, and that the family is the fundamental unit of society. The Government also recognizes that many of its programmes, policies, and laws play an important part in the lives of individuals and families. Policies must be assessed in order to ensure that they encourage the healthy functioning of families and strengthen the capacity of families to meet the needs of their members, to allow them effectively to make their contributions to society. The Premier's Council in Support of Alberta Families was established to give this family focus in Government. The Council consists of 12 members, drawn from across the Alberta community, appointed by ministerial order for periods of one to three year. The Council also employs an Executive Director and support staff.

464. The Council's mandate includes seeking practical advice from all Albertans on how Government can strengthen families, recommending ways in which the Government can encourage partnerships, assisting in creating public awareness on matters of interest and concern to families, advising the Minister, and assisting Government.

465. In order to fulfil its mandate, the Council fosters public awareness and education, consults with individuals and communities, facilitates public policy, works in cooperation with Government and non-government organizations that serve or affect families, and supports Ministerial requirements.

2. Parental responsibilities (art. 18, paras 1-2)

466. Past and present legislation and policy recognize that parents have joint and primary responsibility for their children.

467. The new child welfare proposals, "Reshaping Child Welfare", state:

> "We expect parents to be accountable for the care of their children and that they, their extended families and their communities assume primary responsibility for children. In the past, the Government has assumed too much of this responsibility and has drifted away from appropriate supports."

468. The report contains seven recommendations for actions to ensure that parents do not abrogate their responsibility to their children and recommends methods including policy, education, community self-help groups, stiffer penalties for child abusers, and assistance for children who are to provide evidence in court.

3. Separation from parents (art. 9)

469. The Government recognizes that the best environment for the child to grow and flourish is in the home with his or her natural parents. Consequently, the Department of Family and Social Services considers removal of the child a last resort. The Department will first provide services in the home to try to resolve the problems. These services include counselling, education on

home-making and parenting. A professional may be temporarily placed in the home until the family is functioning appropriately or as long as there is a demonstrated desire and interest on the part of the parents to improve the situation. The Department will also provide referrals to other agencies that can provide appropriate support.

470. The Department will not leave a child in the home at all costs, however. The *Child Welfare Act* provides criteria for more intrusive interventions. As stated above, the best interests of the child are paramount in making decisions about the child. The child's right to be heard, particularly if he or she is over 12 years of age, is an important factor in taking decisions.

471. The "Reshaping Child Welfare" report includes plans for improving foster and residential care and for reviewing children in care.

4. Recovery of maintenance for the child (art. 27, para. 4)

472. The *Maintenance Enforcement Act* ensures that maintenance payments agreed to on the dissolution of a marriage are paid. The Act creates a position of Director with whom every maintenance order issued since December 1986 is filed. The Director ensures that maintenance orders are honoured and launches and conducts proceedings on behalf of the creditor. Penalties for non-payment include wage garnishees, fines and jail terms of up to three months.

473. The Department of Family and Social Service administers a family relations programme, one component of which is aid provided to a parent on social assistance. The Department makes the parentage and maintenance application on behalf of a parent receiving social assistance.

5. Children deprived of a family environment (art. 20)

474. The treatment of those children who are the victims of abuse or neglect and State intervention has been described above.

475. For considerations in making decisions about the child, see under "Preservation of identity (art. 8)" above. The Government realizes the benefits to children of stability and continuity of care, part of which is expressed through cultural, religious and linguistic continuity.

476. Further, the Department is aware of the specific needs of certain groups (for example, the benefits of placing native children with native families). The Department operates the Native Services Unit, which cooperates with the native community in the placement of children. This is an example of the Department's respect for the child's cultural background.

6. Adoption (art. 21)

477. In Alberta, children are adopted through the government programme as well as through private agencies; both are covered by the *Child Welfare Act*. Adoption may not proceed without the consent of all guardians if the child is under 12 years of age, or without that of all guardians and the child if the child is over 12 years of age. The legislation and policy place a great deal

of emphasis on the opinion of a child over the age of 12 years. The legislation allows the possibility of revoking consent within a specific time and stipulates the procedure to be followed.

478. Where adoption is by relatives, a home study may not be completed where the adoptive parent is a step-parent. Other adoptions by relatives and all adoptions by non-relatives require a home study. Again, the opinion of the child over 12 years is important in making a decision.

479. In the case of native children who are members of a band, the chief or council of that band must be consulted before the adoption may proceed.

480. Private adoption agencies are licensed under the *Child Welfare Act* and must conform to its procedures. Private agencies are subject to the scrutiny of a Director who may be appointed for this purpose. Where the Director is concerned about the operations of an adoption agency, the agency may be subject to an investigation in which all books, records, accounts or any other documents may be reviewed. Agencies that do not meet the criteria of the Act may not be granted a licence or, should an investigation reveal improprieties in a licensed agency's practices, that agency's licence may be suspended or revoked.

481. The Government monitors private adoption, in part to ensure that the natural parents have not been coerced into giving up their child for adoption, and that they are not being paid to give up their child.

482. The Alberta Government supported in principle Canada's ratification of the *Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption*.

7. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 25)

483. The *Child Welfare Act* defines those situations in which a child is determined to be in need of protective services under Sections 1(2) and 1(3). The Act takes effect if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered.

484. Grounds for intervention include abandonment, death of the guardian(s), neglect, physical or sexual abuse, emotional injury by the guardian, and the condition of the child. The Act also defines emotional, physical and sexual abuse. When a child is in need of protection, then the Department of Family and Social Services will intervene.

485. Because the provision of protective services is intended to remedy an abusive environment, criteria are also described to ensure that the placement is consistent with the protection of the child. Section 2(h) prescribes that any decision concerning the placement of a child outside the child's family would take into account the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage; that ensures the child stable and continuous care and relationships; that allows the child to stay as close as possible to the child's home community; that takes into

account the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development; and judges whether or not the proposed placement is suitable for the child.

486. The Department has programmes in place to assist in the recovery of victims of abuse or neglect. The Department contracts with private agencies to provide counselling for children. Where the parents can afford it, they are expected to pay; however, subsidies are available and in some cases the Department pays the full cost. In severe cases, the Department has the use of government institutions as well as hospital treatment beds. The Department of Family and Social Services does not, however, see the mental health of the child as its responsibility; mental health services are provided under the provincial Department of Health (see below).

8. Periodic review of placement (art. 25)

487. Children who have been placed in care must be safe from the kinds of dangers from which they were removed. The Department of Family and Social Services thus provides for reviews of the situation of children in its care. Current policy provides for a social worker to visit children who have been placed in foster homes a minimum of once every three months. This number would be increased under the "Reshaping Child Welfare" proposals to a minimum of one visit per month.

F. Basic health and welfare

1. Disabled children (art. 23)

488. The Government of Alberta offers an extensive and flexible programme to support disabled children in their homes. Disabled children are not institutionalized as they previously were. The Government understands that the parent has primary responsibility to care for and nurture the child, but may need support where the children have disabilities. The Handicapped Children's Programme, begun in 1974, was the first in Canada and has retained its unique ability to tailor services to the needs of the child and family. The service provides help for parents and siblings that include education and counselling, assistance with transportation, financial assistance, babysitting and home-maker support and nursing care. In some cases, the service has provided 24-hour nursing care in the home.

2. Health and health services (art. 24)

489. The Department of Health offers support programmes through public health units throughout the province. Pre- and post-natal education is an important service. Classes are usually conducted in groups. Education to expectant parents includes adequate nutrition and exercise during pregnancy, as well as instruction on dangers to the foetus that should be avoided. Pre-natal classes concentrate on foetal growth, care for the mother during delivery, and care of the newborn, including both nutrition and hygiene. Public health nurses make contact with new mothers through telephone calls or home visits. Visits are determined by the assessed needs of the mother. Immediate post-natal care also includes classes in parenting for new mothers, dealing with postpartum depression, growth and development of the child and the changing needs of the family. Longer-term education includes parenting the child and older child, nutrition and hygiene and other topics that parents may

request. Parents are invited to identify needs. In the case of older children or teenagers, counselling tends to be on a one-to-one basis rather than group discussions. The public health units work in partnership with other agencies in the community. All these services are free and are available through local hospitals, clinics and boards of health throughout the province.

490. Public health units, located in communities throughout the province, operate "well-child" clinics. These clinics offer programmes of infant and child immunization and educate parents on the importance of nutrition and care. Clinics also monitor development of the child and make referrals in cases where infants fail to thrive or exhibit other developmental problems. The services of health clinics, including immunization, are free and available to all.

491. The health units also operate sexual health clinics that provide education and counselling for parents and children. The programmes offer education on sexuality, sexually transmitted diseases and family planning.

492. The health units work in partnership with all schools in Alberta, public, separate and private, to serve as a resource to students and teachers. A public health nurse is assigned to every school to assess health needs of students, educate teachers, work with families and act as a liaison with other agencies. Public health nurses also work with teachers, families, and the community to integrate special needs students into the schools.

493. Where it appears to professionals involved with the child that the child's survival is threatened because of the parents or guardians, the *Child Welfare Act* provides for intervention by the state to provide necessary protection.

494. Mental health services to children are delivered through the Mental Health Division of Alberta Health. The goal of this division is early intervention and treatment of children with mental health needs. The Division directly operates over 50 permanent and 40 travelling mental health clinics. The travelling clinics provide services to remote areas that are not served by a permanent clinic.

495. Clinics offer assessment, consultation, counselling and treatment. Clinics collaborate with other agencies and community organizations in the regions that they serve. The Division also provides services indirectly through a number of agencies and organizations that are governed by boards. These agencies offer a range of assessment and treatment services for children.

496. In 1991-1992, Alberta Health announced a $1,000,000 children's initiative. The programme funded collaborative programmes throughout the province. An example is the Calgary Family Support Services, which is coordinated by the Calgary Board of Education and provides assessment and treatment in the schools, both public and separate. Services are available to support teachers, children and their families. Children can obtain these services through the school which they attend.

497. All of the services provided by the Mental Health Division are free and available to all.

G. Education, leisure and cultural activities

1. Education, including vocational training and guidance (art. 28)

498. The education system in Alberta is governed by the *School Act*. The Act recognizes the private and separate school systems, which are governed by boards, as the principal vehicles for the delivery of education in the province. However, sections 22 through 24 provide for the operation of other school systems. The Act allows for the establishment of private schools, home education programmes and early childhood education programmes for children one year younger than the age for entering grade 1. These programmes are subject to inspection.

499. Every individual in the province who is younger than 19 years of age on 1 September in any year is entitled to attend an education programme governed by the Act. School attendance in Alberta is compulsory to the age of 16. Attendance is enforced by "attendance officers" who have the right to enter buildings other than dwelling places and to accompany the child to school. An Attendance Board will review the situation of students who persistently fail to attend school.

500. Alternate forms of education are available to children with special needs, although an effort is made to integrate them into the public or separate school systems. In addition to education for children with special needs, vocational education and work experience programmes are also available.

501. Discipline is not dealt with under the Act, but is the subject of school board policy. Corporal punishment has been abandoned by most school boards in Alberta. Teachers are provided with education in how to deal with conflict in the classroom without resorting to corporal punishment.

2. Aims of education (art. 29)

502. The philosophy and intent of the education is expressed in the preamble to the Act, which envisions the best education for Alberta students, intends a strong role in decision-making for parents and places emphasis on developing respect for the varied components of Alberta society.

503. In order to ensure that the respect for other cultures and identities is considered, the Department of Education has in place a policy on tolerance and understanding. All teaching materials authorized by the department are expected to meet the policy criteria. Schools and teachers are expected to use the policy criteria when selecting additional materials for use in the classroom.

504. Human rights and acceptance of cultural diversity are dimensions of all provincial curricula, most notable those of social studies, languages and health. Local activities reinforce and complement these aspects of the provincial programme. For example, the Education Council on Human Rights, centred in Calgary and composed of 21 educators who meet monthly, has as its aim to ensure that respect for the principles of human rights be a part of the teaching programme in every school. The Council produces a directory of members and resources which is available throughout Calgary to assist teachers

who want help in developing such a programme. The Council presents an annual educators' award that is presented at a ceremony held on 21 March of each year. Members of the Calgary Council are currently organizing a similar group in Edmonton and hope to found similar councils around the province.

505. The Society for the Elimination of Discrimination and Stereotyping has created units to be included in every core subject that is offered in the schools. The units work to sensitize children to the differences of others and to celebrate those differences. Every teacher in the public and separate school systems in Calgary is made aware of these units and they are provided on request.

506. The Multicultural Education Council is a province-wide organization of educators that meets throughout the year to ensure that an appreciation of the multicultural nature of our society is part of the education of children. The Council hosts an annual conference that provides education sessions for teachers as well as developing recommendations to Government.

507. Bill 8, *The School Amendment Act*, introduced in the fall of 1993, deals in part with French-language schools. The Bill allows francophone parents to manage French-language schools. This legislation is seen as a great step forward in respect for individual cultures and languages.

3. Leisure, recreation and cultural activities (art. 31)

508. In recognition of the need for children to have leisure time, the school year in Alberta is only 10 months long, allowing for a long break over the summer months. In addition, breaks of up to two weeks occur at Christmas and in the spring.

509. Both provincial and municipal levels of Government offer extensive recreational programmes geared to children. These include athletic programmes, programmes to develop an appreciation of nature and the environment and programmes to develop ability in, and appreciation for, the arts. The provincial government provides partial funding for agencies in major municipalities in the province that offer training in music, drama, production and design. Institutions such as Alberta College in Edmonton offer these programmes for children from pre-school age up to adulthood. Government assistance is available for students taking these programmes.

510. The Province funds a public library system which includes extensive children's programmes and services. This system is administered under *The Libraries Act*, which governs the establishment and operation of library boards. The system is currently under review. The Grants Review Task Force released a report on library funding and the future management of public libraries to the Minister of Community Development in September 1993. The report deals with the equitable distribution of library services throughout the province now and in the future.

511. Most library boards charge a membership fee, but furnish information and lend books free of other charges.

H. Special protection measures

1. Children in conflict with the law

512. *The Alberta Young Offenders Act* mirrors the federal legislation and has the same purpose and philosophy. The aims of the legislation are to hold young persons who break the law responsible for their actions, protect society from illegal behaviour and protect the legal rights of young offenders. Consequently, this Act grants young offenders the right to legal counsel at all stages of proceedings, the right to an open and fair trial, to bail, to remain silent, to have a parent or other adult of their choice present during pre-trial detention and court proceedings, and to appeal.

513. Young offenders have their own court system. Youth court differs from adult court in that preliminary hearings and jury trials are not possible, such that youth court is less formal than adult court and expedites the judicial process as much as possible.

514. Section 3 of the Act provides dispositions other than the courts. These include absolute discharge, fines up to $1,000, compensation orders, restitution, personal service to the victim, community service, prohibition, seizure or forfeiture orders, treatment by consent, probation and custody.

515. Before custody is determined, a predisposition report is prepared by Justice Department staff. Predisposition reports contain a thorough history of the young offender including family experiences, school experiences, past criminal involvement, results of psychological testing and experience with other social agencies. This information must be considered by the judge in developing a plan for the sentencing and future treatment of the young offender.

516. Young offenders who are in custody are held in separate facilities which are designed for this use and which range from group homes to secure environments. Young Offender Centres operate in both major urban centres, Edmonton and Calgary. These centres incorporate educational, vocational, recreational, medical and other programmes. In addition, facilities exist throughout the province and include group homes, forestry and wilderness adventure camps, and treatment beds.

517. Custody is the final resort and most punitive outcome of the youth court system.

2. Children in situations of exploitation

518. In Alberta, *The Employment Standards Code* specifies that no employer will employ or permit to work a child who is required to attend school under *The School Act*, except as part of a vocational training programme. The minimum age of employment without parental consent under the Code is 15 years. Children under 15 years must have the consent of parents or guardian and approval of the Director of Employment Standards. The Director may issue regulations on the employment of individuals 15 to 17 years of age in any occupation in which he feels it is proper to do so. Minimum wages are established by the province through legislation and are revised periodically.

519. The Alberta Alcohol and Drug Abuse Commission offers extensive education programmes to protect children from alcohol and drug abuse. The Commission also offers emergency shelters for children who are suffering from drug use and has beds available for this purpose. In addition, addictions counselling is available and youths may be referred to the appropriate agency or organization.

520. Children who are the victims of sexual exploitation or abuse by guardians are dealt with through the child welfare system as described in the family environment section, above.

3. Children belonging to a minority or indigenous group

521. As stated above, the *Child Welfare Act* provides that the linguistic, religious, ethnic and cultural background of a child receiving services under the Act is protected and respected. Some of the private agencies and organizations involved in this issue have also been described above.

522. In the case of Aboriginal children, the Government consults regularly with the Native Counselling Services Association of Alberta, Native Employment Services of Alberta, Indian bands in the province and other Aboriginal support groups.

III. SASKATCHEWAN

A. Principal legislation

523. The following is a list of legislation specifically dedicated to the interests of children. It is not an exhaustive list of legislation affecting children.

The Child and Family Services Act, (1990) deals with the provision of protection and support services for children and their families;

The Saskatchewan Assistance Act is the framework for the provision of financial assistance to needy families and individuals;

The Adoption Act governs the delivery of a full range of adoption services;

The Child Care Act regulates the province's child day care services;

The International Child Abduction Act was enacted pursuant to obligations undertaken under the Hague Convention on International Child Abduction;

The Children's Law Act deals with matters of custody of and access to children, guardianship, children's property, child status, parentage and related matters;

The Enforcement of Maintenance Orders Act sets up an agency and legal mechanisms to enforce parents' court-ordered maintenance obligations.

B. Saskatchewan's Action Plan for Children

524. On 30 June, 1993 the Ministers of Social Services and Health, speaking on behalf of six Ministers and eight departments and secretariats, announced details of a comprehensive Child Action Plan, designed to mobilize communities, organizations and individuals to join government in community-based action plans to improve the lives of children. Over 1,200 organizations were invited to share their ideas and proposals towards the goal that Saskatchewan children grow in an environment that supports their well-being and enables them to reach their potential.

525. In the past, government departments have tended to work separately to respond to social problems affecting children and families with separate departmental plans, strategies, programme initiatives, and budgets. The aim of the Action Plan is to create a comprehensive, flexible and responsive approach to serving the needs of children.

526. The Saskatchewan Action Plan for Children represents a commitment to address and respond to the needs and well-being of all children through coordinated work by government and communities. Coordinating community-based ideas and solutions will mean the development of new programmes, new partnerships, new service delivery models, and an improved coordination of existing legislation, policies, programmes and services.

527. Since many children at risk are Indian and Métis, the Federation of Saskatchewan Indian Nations (FSIN) and the Métis Nation are developing specific plans for Indian and Métis children and families.

528. The Action Plan is being coordinated with "Brighter Futures", the federal initiative aimed at preventing the conditions which compromise the health and well-being of children aged 6 and under and their families.

529. The Government has extended an invitation to a broad spectrum of organizations to form a Council on Children's Issues.

530. The Child Action Plan will spread the children's agenda out further into the communities for solutions, rather than relying upon centralized government initiatives and direction.

531. The Action Plan is to be implemented in three stages. The first stage consists of building agreement within government and creating a policy framework for use by government, communities and non-governmental organizations in the development, implementation and review of legislation, policies, programmes and services. A background paper will be prepared highlighting the documentation available on preventative programming and integrated services. As the Action Plan develops, government departments will continue to take immediate action which is consistent with the policy framework.

532. The second stage aims at public participation. It is essential that the Action Plan involve governments, organizations, businesses, community groups, individuals and children and families. Community-based discussions and

planning will concentrate on the proposed policy framework, key social, health and economic challenges and ways to collectively take actions through broader partnerships.

533. The third stage involves all partners in this enterprise in defining joint and separate roles and responsibilities to plan and implement the actions. Planning will include specific actions and methods for review to ensure that goals are met. Stage three will be presented as a public document which, over time, will be revised and expanded.

C. Article 2: equality

534. *The Saskatchewan Human Rights Code* protects everyone in Saskatchewan (including children) from discrimination on the basis of race, colour, creed, religion, sex, sexual orientation, family status, marital status, disability (mental and physical), age (between the ages of 18 and 64), nationality, ancestry, place of origin and receipt of public assistance.

535. Family status was added as a prohibited ground of discrimination in 1993. Family status is defined as "being in a parent and child relationship". This provision will prevent people with children from being discriminated against on that basis in employment, housing or public services. Experience in other jurisdictions has been that this provision is most frequently used when families are renting housing.

D. Article 18: parents' responsibilities

536. The Department of Social Services has convened several meetings with provincial organizations involved in the education of parents. These groups are working together to increase public awareness of the importance of developing effective parenting skills and to make opportunities for the education more broadly available.

537. An interdepartmental review team has been formed to study child care issues. The team is made up of representatives from the Departments of Social Services, of Education, Training and Employment, of Economic Development, and of Labour, and also from the Indian and Métis Affairs Secretariat and from the Women's Secretariat. Representatives from a variety of interest groups have been invited to participate in consultations. Special-interest organizations representing agriculture, Aboriginal peoples, business and special needs groups are currently being consulted.

538. The Child Care Review Team is coordinating efforts with the Child Action Plan to ensure that child-care issues are identified and considered as communities develop their action plans for children.

539. An additional $500,000 was provided in the 1993-94 budget to expand provincial day-care services.

540. An additional $200,000 was provided in the 1993-94 budget to expand support and counselling services for teen-aged parents.

E. Article 21: adoption

541. The Family Connections Programme is a concentrated, four-year effort by the Department of Social Services to place 400 permanent wards with a secure lifetime family, either through adoption or through return to the child's family of origin. It is a recognition that a child has a right to the opportunity to establish lasting family ties and that the department has a responsibility to provide such an opportunity.

542. Though the initiative applies to all permanent wards of the Minister, it is especially directed towards children of Aboriginal ancestry. Bands, Tribal Councils and the FSIN are jointly planning for registered Indian children in the care of the Minister of Social Services to ensure that, where possible, they may be returned to their homes and communities. Joint actions will also be taken to support registered Indian families to prevent their children from coming into care.

F. Article 23: children with disabilities

543. The Department of Social Services provides support services for developmentally delayed children. The family is recognized as the primary care-giver, and support services are provided based on the special needs of the child and family. Community-based group homes and family-centred resources have replaced institutional care. No developmentally-delayed child has been admitted to institutional care since 1977.

544. The Transit for the Disabled (TFD) Programme is administered by the Department of Municipal Government and provides financial assistance to cities and towns that have a public transit service for people with disabilities. Participating municipalities are eligible to receive operating assistance of up to 50 per cent of the annual operating deficit incurred, and up to 75 per cent of the cost of acquiring specially equipped vehicles. The number of vehicles purchased each year depends on funds available in the TFD budget. Construction, demonstration and transit study grants of up to 75 per cent of eligible costs are also available to cities and towns for the operation of a transit service for the disabled.

G. Article 24: health

545. A number of activities of the Department of Health promote the social policy goals and philosophy outlined in the United Nations Convention on the Rights of the Child. These activities are described below.

1. The Minister's Advisory Committee on Family Planning

546. In June, 1992, the Minister appointed an Advisory Committee on Family Planning. The Committee's mandate was to make recommendations to the Government on ways to improve reproductive health and to reduce the high incidence of unintended pregnancy and sexually transmitted diseases among teens in our Province.

547. The Committee received many briefs and held consultations with community groups, First Nations people and high-school students. In combination with a local television station, the Committee produced a series of shows that dealt

with issues related to teenage sexuality. Teens hosted the show, were members of the live audience and participated in satellite stations throughout the Province.

548. The Committee's first report was released in November, 1993. The report recommends action on a number of topics including family life and sex education.

2. The Dental Health Education Programme

549. The Dental Health Education Programme provides dental screening and education programmes for children. Screening is used to determine which children and schools have the greatest dental-care needs. Education and prevention services are then directed to those children and schools.

550. The Prince Albert and Saskatoon Health Districts, with funding from the Saskatchewan Department of Health, are each developing a school-based pilot dental programme to provide prevention and treatment services in areas of high need. Using a community-development approach, both districts have established local planning communities.

3. Family violence prevention and treatment initiatives

551. The Department of Health is a member of the Provincial Partnership Committee on Family Violence, which is developing a coordinated community and departmental plan.

552. Among services provided by the Department which are relevant to article 24 are prevention services for Aboriginal youth, suicide intervention and prevention services, community-based treatment for victims of family violence in rural areas, and treatment services for high-risk youth who are sex offenders.

553. The creation of child abuse protocols is a new development in the prevention of family violence.

4. Community health

554. Other services provided by the Department are public health nursing, public health inspection, nutrition counselling, early childhood psychology, speech and language therapy, and dental and health education. All of these services benefit families and children. The role of the public health officer is to anticipate the stages of individual growth and work with families to cope with resulting changes.

555. The nutrition programme concentrates on fostering awareness among the general community of the importance of healthy diet. Workers regularly speak to groups dealing with family issues.

5. Mental Health Services Branch, Child and Youth Services Division

556. The Child and Youth Services Division of the Mental Health Services Branch uses a wide range of individual counselling and group work methods to

treat children and teenagers with emotional problems. Services to children and youth are delivered in eight mental health regions. Specialist facilities exist in Regina and Saskatoon.

6. Health services

557. Hospital and physician services for all Saskatchewan residents, including children, continue to be funded by Saskatchewan Health. The fact that basic health services are available regardless of income works to ensure that children lead healthy and productive lives.

558. The wellness model of health currently used by Saskatchewan Health and district health boards will contribute to children's well-being by responding to the needs of women, children, families, the elderly and others with special health needs. District health boards are assessing the health needs of residents in their areas and will be planning future services based on these assessments.

7. Legislation relating to minors

559. A new *Public Health Act* will be introduced during the 1994 sitting of the spring Legislature. One section of the Act stipulates that children over the age of 14 who understand the nature and effect of an order requesting that a certain action be undertaken or refrained from can be served with that order. This provision provides legal support for the recognition of the autonomy of children in appropriate circumstances.

8. Saskatchewan Alcohol and Drug Abuse Commission

560. In recognition of the enormous economic and social costs of alcohol and drug abuse to the province, the Saskatchewan Alcohol and Drug Abuse Commission (SADAC) was established to provide leadership, research, prevention, treatment and rehabilitation.

561. SADAC uses a decentralized approach to deliver services to individuals and communities and provides a network of in-patient, out-patient and detox facilities for the assessment and treatment of youth and families with alcohol or drug problems. Children and youth aged from 12 to 18 years requiring in-patient residential treatment receive care and counselling from a specialized youth treatment facility designed for adolescents. Fifteen Regional Coordinators and seven Youth and Family Service Workers provide intervention and rehabilitation services to youth and their families.

562. SADAC provides information through written materials and videotapes and offers prevention services on chemical abuse for adolescents.

563. Specialized peer support programmes and the Peers Helping Peers Programme are aimed specifically at adolescents. The objectives of the programmes are to promote healthy living and teach life-skills through the promotion of positive peer pressure.

564. SADAC also provides professional awareness and training programmes for teachers, parents and counsellors who deal with adolescents. These programmes provide information about the nature of alcohol and drug abuse, the

observation and documentation of adolescent problems, communication skills, assessment, intervention and referral services. SADAC also sponsors education workshops for educators, school administrators and directors of education to outline policies and procedures for the management of alcohol and drug incidents among children and adolescents in schools.

H. Article 27: standard of living

565. Despite difficult economic conditions, providing for the basic needs of the disadvantaged and poor, especially children, remains a government priority. To this end, the budget of the Department of Social Services for 1993-94 was increased by 4 per cent or $18.5 million. Some of the changes included the standardization of the basic allowance and room and board rates, increases to the Northern Saskatchewan food allowance and the provision of an additional $40 a month in basic allowance for disabled persons or $10 a month for those receiving room and board. Furthermore, utility allowances are now tied to actual costs, to solve the problem of families having to use money intended for food and clothing to pay for utilities.

566. In July of 1993 there was a further increase to children's basic allowance and room and board rates. Children now receive $160 a month in basic allowance, or $245 a month in room and board allowance; the first child in a single parent family continues to receive either $195 a month in basic allowance or $270 a month in room and board allowance. Benefits pursuant to the Family Income Plan (a programme designed for those not totally dependent on social assistance) increased by $5 a month per child. Maximum benefits are now $105 a month for the first three children and $95 a month for the fourth and each subsequent child.

567. In collaboration with community agencies and schools, child nutrition and development programmes have been established to respond to the problem of child hunger within the province. In 1992-93, the Child Hunger Budget increased from $740,000 to $1 million. This money supported 109 projects in communities throughout the province. Most projects are located in schools or community agencies, relying on community organization and voluntarism.

568. *The Saskatchewan Housing Corporation Act* has, since 1973, enabled government to assist in the provision and improvement of housing and related amenities for eligible low-income families and individuals. A range of social housing programmes is planned and delivered in cooperation with the Canada Mortgage and Housing Corporation. Approximately 9,500 housing units benefit from these programmes, including:

(a) Non-Profit Direct Delivery for Families;

(b) The Rural Housing Programme;

(c) Innovative Housing, Non-Profit and Rent Supplement Programmes;

(d) The Non-Profit Housing for Group Homes Programme;

(e) The Healthy Housing Programme.

569. The Healthy Housing Programme, for example, provides services which have a direct effect on the safety and security of the children within the projects and foster a more independent environment.

570. The especially acute needs of Aboriginal people in northern Saskatchewan, currently subject to some measure of housing shortages, are being addressed through a number of initiatives including:

(a) The Rural and Native Housing Programme;

(b) The establishment of a Tripartite Management Committee, comprised of the Federal Government, the Provincial Government and Aboriginal groups, to plan and implement programmes to increase Aboriginal; control over housing issues;

(c) The upgrading of water and sewer facilities;

(d) Through the Post-Occupancy Corrections and Modernization and Improvement Budget, the completion of $6 million in home renovations with an emphasis on the health and safety concerns of Northern families;

(e) The establishment of a Housing Certificate Programme, in association with CMHC and the Métis Society of Saskatchewan, to assist with the development of skills of northern people in preparation for their long-term involvement in housing in northern Saskatchewan.

571. The Home Modification for the Disabled Programme, established in 1981 and funded entirely by the provincial government, provides assistance to parents or guardians of dependents with disabilities to improve the accessibility of their homes.

I. Articles 28 and 29: education

572. *The Saskatchewan Human Rights Code* states that every person shall enjoy the right to education in any school, college, university or other place of learning, without discrimination because of race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of public assistance.

573. Pursuant to *The Education Act*, school attendance is compulsory for children between the ages of 7 and 16 years. In addition, schooling is provided to anyone between the ages of 6 to 21 years. Both primary and secondary education are free. Special initiatives in the areas of special education, Indian and Métis education and the use of new technology to deliver educational programmes to remote areas of the province have improved the availability of programmes to all students in the province.

574. A wide range of post-secondary opportunities is available to Saskatchewan students through the province's two universities, nine Regional Colleges and the Saskatchewan Institute of Applied Science and Technology. Post-secondary education is not free; however, financial assistance through student loans is available to students in need.

575. Career guidance information and counselling are available in all Saskatchewan schools. Materials produced by a variety of organizations are regularly distributed to high schools. As well, a computerized information system developed for use in student counselling is available to schools and school divisions.

576. As noted above, children between the ages of 7 and 16 are required to attend school on a regular basis. Initiatives to encourage students to stay in school are under way, both on a provincial level and in cooperation with the federal government and business. A comprehensive system of tracking students from kindergarten to grade 12 is being developed and will eventually provide information on retention patterns.

577. School divisions develop their own policies regarding discipline within their schools. Many such policies stipulate that discipline in school should be the same as that which might be delivered by a "wise and judicious parent".

578. The development of the child's full potential is the goal of Saskatchewan's Core Curriculum. In addition to the specific areas of study, a major component of the Core is the "Common Essential Learnings", which emphasize general skills, values and attitudes which apply to all areas. These include such subjects as communication, numeracy, technological knowledge, independent learning, social skills and creative and critical thinking.

579. The Departments of Social Services and Education, Training and Employment jointly developed two pilot "pre-school" projects located in Prince Albert and Laloche. These projects assist the communities to develop pre-school programmes which will provide integrated educational, social and health services for young children at risk and their families. The Department of Health will assist through the coordination of health services for the children participating in the project.

580. Research and experience demonstrate that intervention in the first years of life can provide a solid foundation and reduce the likelihood of educational problems arising later. In recognition of the fact that children from socially and economically disadvantaged families are at greater risk of not having their developmental needs met at an early age, a significant number of children in the proposed pre-schools will be from families receiving financial assistance.

581. Among the expected short-term benefits are improved readiness to attend school, improved cognitive functioning, increased social skills, improved health and higher self-esteem, all of which contribute to greater success in school and in the community. Long-term outcomes include lower rates of juvenile crime, fewer pregnancies among adolescents, higher employment and earnings, fewer failed grades and referrals to special education services.

582. Historically, Aboriginal students in Saskatchewan have had tragically high drop-out rates. Studies in the 1980's showed close to 90 per cent were not completing grade 12. Concern about that drop-out rate was the driving force behind Education Equity, an affirmative action programme, unique to Saskatchewan, for Aboriginal students in elementary and high schools.

583. The goal is to ensure that schools are more supportive of Aboriginal students by recruiting more Aboriginal teachers, involving parents, adding culturally meaningful studies to the curriculum, and providing cross-cultural training for teachers and other staff. The programme was initiated by the Saskatchewan Human Rights Commission in 1985. To date, in conjunction with the Commission, 19 school divisions throughout Saskatchewan have implemented Education Equity plans involving about 75,000 students or 38 per cent of the province's total enrolment. Eighteen per cent of the children covered by Education Equity programmes are of Aboriginal ancestry.

584. It has been estimated that by the year 2011, approximately one-third of Saskatchewan's school population will be of Aboriginal ancestry. It is clear that the future well-being of the province will depend a great deal on the ability of Aboriginal children to participate fully in today's education system.

585. Work is also being done to address the needs of non-Aboriginal students. The Saskatchewan Human Rights Commission, working with the Saskatchewan Teachers Federation, the Saskatchewan School Trustees Association and the Saskatchewan Department of Education, Training and Employment, has produced an anti-racism kit to assist teachers and administrators to deal with or prevent racism in their schools. The package includes tips on how to counter racial incidents in the school system, guidelines for policy content and development, and a supplementary leadership training course to help school divisions work out policies of their own.

J. Article 30: cultural, religious and linguistic rights

586. Saskatchewan was the first province in Canada to enact multicultural legislation. The purpose of *The Saskatchewan Multicultural Act, 1974* was to encourage multiculturalism in the province. Multiculturalism was defined within the Act as including:

> "The recognition of the rights of every community, whose common history spans many generations, to retain its distinctive group identity, and to develop its relevant language and its traditional arts and sciences, without political or social impediment and for the mutual benefit of all citizens".

587. In November 1992, the Minister of Saskatchewan Municipal Government announced the appointment of an advisory committee to review multicultural legislation and make recommendations for change. The Committee submitted its recommendations to the Minister in the fall of 1993.

K. Article 31: rest and leisure

588. The Government of Saskatchewan uses the Saskatchewan Lotteries Trust Fund to assist sports, recreational, artistic and cultural activities for all children within Saskatchewan. The programmes must be equitable and accessible to all, regardless of ability or circumstance.

589. The Saskatchewan Department of Environment and Resource Management provides opportunities for recreation and leisure through *The Parks Act*, which states that park land is dedicated to the people of Saskatchewan and visitors

to Saskatchewan for their enjoyment and education and that the natural, prehistoric and historic resources of park land are to be maintained for the benefit of future generations.

590. Saskatchewan provincial parks offer a variety of programmes that enable children to play and make use of recreational activities. Examples include trails, waterfront activities, playgrounds, supervised recreation and interpretive programmes, environmental education, fishing and hunting, drama, dance and outdoor festivals.

L. Article 32: protection from economic exploitation

591. *The Labour Standards Act*, which provides for minimum wage, hours of work, overtime pay, vacation entitlement, public holidays, equal pay, and days of rest, makes no reference to age.

592. The Act provides for maternity leave of up to 18 weeks for every employee who has been in the employment of her employer for a continuous period of 12 months or more. Paternity leave and adoption leave is also available for up to six weeks on the same terms.

593. By law, the minimum age at which employees may be employed in any educational institution, hospital, nursing home, hotel or restaurant is 16 years.

594. The *Occupational Health and Safety Act* prohibits the employment of any person under the age of 16 years:

(a) At or about any construction site, work of engineering construction, trench or excavation;

(b) At any pulp mill, saw mill or woodworking establishment;

(c) In the vicinity of industrial processes at any factory;

(d) In any silo, storage bin, vat, hopper, tunnel, shaft, sewer or other confined space;

(e) On the cutting line of any packing plant or the evisceration line of any poultry plant;

(f) In any forestry or logging operation;

(g) On any drilling or servicing rig;

(h) As an operator of any heavy, mobile equipment, any crane or other hoisting equipment; or

(i) As an operator of a forklift truck or similar mobile equipment within a place of employment or in the vicinity of other workers.

595. In addition, Regulations passed under the Act prohibit the employment of any minor:

(a) Underground or at the open-pit face of any mine;

(b) As a radiation worker; or

(c) In any activity for which respiratory protective equipment is required by any regulations made under the Act, except where that work is performed under close and competent supervision.

M. Articles 37 and 40: young offenders

596. Approximately 50 per cent of young offenders in open custody are placed in the Community Homes Programme. Approved family homes located throughout the province provide care and custody services for youth who would otherwise be placed in custody facilities. This programme allows the youth to remain closer to home, have access to community-based services and schools, and benefit by the relationships and activities of a healthy family environment. Further expansion of this programme is planned.

597. In fall 1993, the Paul Dojack Youth Centre will offer a specialized sex-offender treatment programme to youth sentenced to closed custody. The target group will be those who have committed aggressive or violent sexual offences. A psychologist is being added to the facility.

598. The Young Offender Programme has given priority to the development of community-based programmes and preventive services for at-risk youth, thereby providing the Youth Court with alternatives to custodial sentences. Examples of these programmes are:

(a) Supervised Board and Room: This programme supports independent living for youth over the age of 16 years who are liable to receive a custodial sentence, or may remain in custody because they lack appropriate living arrangements. This programme is also offered to youth over the age of 16 years who have problems with parents, where there is a risk of physical, sexual, or emotional abuse, and in cases where no parent is willing to provide care and supervision;

(b) Day Programmes: The Department of Social Services enters into contracts with community-based agencies and individuals to provide supportive day programmes to youth at risk of entering custody. The programmes offered are many and varied. They offer supervision and counselling to young persons, as well as assistance through the provision of remedial services, recreational programmes and support to the family.

599. Where alcohol or drugs have been a significant factor in the commission of an offence by a sentenced youth, an assessment of dependency on alcohol or drugs will be offered. Wherever possible, specialized treatment and support services are provided during custody.

600. Officials responsible for custody facilities are consulting with the Aboriginal community and incorporating culturally sensitive programmes into current services offered to young offenders.

IV. MANITOBA

601. This report mainly covers the period from 13 January, 1992 to 31 December, 1992.

A. General measures of implementation

602. To harmonize provincial law and policy with the Convention, this jurisdiction has reviewed its legislation and monitored future enactments so as to ensure compliance. An attempt is being made to increase public awareness of the Convention by first sensitizing those public and private bodies involved in human rights.

B. Definition of the child

603. *The Age of Majority Act* provides that "every person attains the age of majority, and ceases to be a minor, on attaining the age of 18 years". As a result, for the purposes of the Convention, the law applicable to children generally includes any person below the age of 18 years, although there are situations where, for specific purposes, a child may be treated in a fashion similar to an adult. Thus, the legal minimum age:

(a) To end compulsory education is 16 years (*The Public Schools Act*);

(b) To commence part-time employment without parental consent is 16 years (*The Employment Standards Act*);

(c) To be employed in hazardous work without parental consent is 18 years of age (*The Employment Standards Act*);

(d) To commence full-time employment without parental consent is 18 years;

(e) To marry without parental consent is 18 years, although persons between 16 and 18 years of age can marry with the consent of their parents, legal guardian, a Family Court judge, or the Director of Child and Family Services (*The Marriage Act*);

(f) To voluntarily give testimony in court varies with the capacity of the individual child (*The Evidence Act*);

(g) To consume alcohol is 18 years of age (*The Liquor Control Act*).

C. General principles

1. Article 2: non-discrimination

604. *The Manitoba Human Rights Code* prohibits discrimination on the basis of race, nationality, ethnic background, religion, age, sex, pregnancy, sexual orientation, family status, marital status, income source, political opinion, physical or mental disability. The Code applies to every person in Manitoba, including children.

605. The Minister of Education ensures that the educational system is free of discrimination. In this capacity, the Minister may require school boards to develop and implement multicultural and anti-racist education programmes.

2. Articles 3, 6, 12: Best interest of the child, the right to life, survival and development, and respect for the views of the child

606. *The Child and Family Services Act* (Manitoba) provides for services to families to prevent the need for placing children into protective care or treatment programmes, and for the protection of children. The best interests of the child are the paramount consideration in all matters other than proceedings to determine whether a child is in need of protection. This includes giving attention to the child's family, the needs of the child, and the child's development, the need for permanency, the merits of any plans, the views and preferences of the child, and the child's cultural and linguistic heritage.

607. Children 12 years of age or more are entitled to be advised of any proceedings and are to be given an opportunity to have their views and preferences known. The courts may order that legal counsel be appointed to represent the interests of children 12 years of age or older in a child protection hearing. The courts may also consider the views and preferences of children under 12 years of age.

608. In addition to providing legal counsel for children, Manitoba established the Children's Advocate in June 1992. This person is responsible for reviewing and investigating complaints relating to children who receive or are entitled to receive services and relating to services provided or available under *The Child and Family Services Act*. The goals of the children's advocate are to:

(a) Ensure that children have the right and opportunity to communicate their feelings, preferences and opinions;

(b) Assist children by representing their rights, viewpoints and interest;

(c) Identify systemic issues.

609. The Community and Youth Corrections Services Branch of Justice Manitoba has recognized the appropriateness of youth participating in the creation and implementation of their plans for change and programming while serving a court sentence involving community supervision or custody. This respect for the views of youth has been formally integrated into policy and procedures in that Branch.

D. Civil rights and freedoms

1. Articles 7 and 8: name and nationality and preservation of identity

610. *The Vital Statistics Act* requires that the birth of every child born in Manitoba be registered before the mother leaves the hospital, or in the case of a home birth, within five days after the birth. Any birth certificate issued subsequently discloses the child's place of birth by occurrence within

Manitoba. Under the legislation, the legal surname of the child will be determined by using the surname(s) of the parent(s), including the mother's legal or maiden name. Where certain ethnic, religious or cultural practices for naming children differ from those provided for under *The Vital Statistics Act*, parents may legally change the name of their child to accommodate these naming traditions under *The Change of Name Act*.

611. The Community and Youth Correctional Services Branch (Justice Manitoba) provides to young offenders in its custody access to religious counsel and worship in accord with the young offender's religious beliefs. This provision is most commonly used with respect to the spiritual beliefs and practices of Aboriginal young offenders. During 1992, sweat lodges, elders and other aspects of Aboriginal spirituality were routinely made available at both the Manitoba youth correctional institutions; this represented a significant development of Aboriginal spiritual programming for young offenders in custody.

612. Sections 44, 45 and 46 of the federal *Young Offenders Act*, which limit the disclosure of information regarding young offenders, is supplemented by Manitoba's *Freedom of Information Act*, which prevents the disclosure of third party information.

2. Article 13: freedom of expression

613. Freedom of expression is encouraged by schools and public libraries in the province. *The Child and Family Services Act* protects the rights of children to communicate while in care (see above, "general principles").

3. Article 17: access to appropriate information

614. The Province encourages and supports the dissemination of information to children from various sources including public libraries, school boards, public television and family service programmes.

4. Article 14: freedom of thought, conscience and religion

615. *The Manitoba Human Rights Code* prohibits discrimination on the basis of religion. This protection applies to children as well as adults.

5. Article 16: protection of privacy

616. A child's privacy is protected to varying degrees under Manitoba's access and privacy legislation.

617. A child in residential care has the right to reasonable privacy including uncensored mail and regular visits under *The Child and Family Services Act*.

618. Health records, adoption records and school records are confidential documents and access to them is limited: see *The Privacy Act*, *The Freedom of Information Act*, and *The Child and Family Services Act*.

6. Article 37 (c): the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment

619. *The Child and Family Services Act* protects children found to be in need of protection. Given the broad definition of a child in need of protection, the State has played a relatively interventionist role to safeguard the well-being of children.

7. Family environment and alternative care

620. *The Child and Family Services Act* contains provisions relevant to family environment as follows:

(a) The Declaration of Principles emphasizes the central role of the family and the rights of families and children;

(b) Families may request services including the voluntary placement of children;

(c) Agencies have a clear duty to intervene in situations where a child is or might be in need of protection, including abuse and neglect, and to take any necessary steps to protect children;

(d) Agencies are accountable to the courts and must follow due process of law when intervening in child protection cases;

(e) The Act provides for appropriate placement and treatment resources which must be approved or licensed;

(f) Both agency and non-agency adoption are based on the best interests of the child and must be according to criteria and procedures set out in legislation and policy. The same criteria and procedures also apply to inter-country adoptions where applicable or enforceable;

(g) The Act requires an annual review of the permanency plans of all children in care.

621. Manitoba has recognized through legislation and administrative standards the right of Aboriginal children to be placed with extended family and in communities of origin where these were in the best interests of the child. Priority has also been given in legislation to placing Manitoba children for adoption in Manitoba. Manitoba strongly supports the *Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption*.

622. Priorities include creating an automated service information system which will enable the Province to more effectively track high-risk families and children in care, and to keep comprehensive statistics on the service population.

623. As of 31 March, 1992, there were a total of 5,412 children in care in child and family services agencies in Manitoba (see attached table on number of children by placement). Over 80 per cent are in foster care. A total of 121 children were placed through the Central Adoption Registry.

624. The Community and Youth Correctional Services Branch (of the Manitoba Department of Justice) acknowledges the central role of parents with young offenders, notwithstanding the intervention of the Branch through its mandate of court-ordered sentences of community supervision or custody. Parents are requested to participate in the establishment of plans for change or programming for their children on probation or in custody. As well, parents of young offenders in sentenced custody do not lose guardianship of them and are responsible for authorizing actions affecting these youths, such as medical treatment.

625. The Community and Youth Correctional Services Branch received 378 young persons sentenced to custody during the reporting period 12 January to 31 December, 1992. The breakdown by age of these youth is as follows: 13 years - 7; 14 years - 20; 15 years - 57; 16 years - 100; 17 years - 101; 18 years - 79; 19 years - 12; 22 years - 1; 25 years - 1. Note that individuals are charged as youths, even if they are over the age of majority, if the alleged infraction took place when they were under 18 years of age. The ratio of female to male young persons sentenced to custody was 1:10.

E. Basic health and welfare

1. Article 6, para. 2, Article 27, paras. 1-3: Survival and development, standard of living

626. Child protection legislation in Manitoba provides for intervention in any case where there is reason to believe that a child is or might be in need of protection. The definition of a child in need of protection is broad and inclusive. Child protection agencies are expected to investigate all child protection situations. They are also expected to provide adequate care and supervision for children who come into care.

627. *The Social Allowances Act* is the primary legislation relevant to children's standard of living.

2. Article 23: disabled children

628. The delivery of Children's Special Services programmes in Manitoba falls under *The Social Services Administration Act*. There is a delegation of authority under *The Child and Family Services Act* regarding out-of-home placement for respite purposes.

629. The Children's Special Services directorate of the Manitoba Government is responsible for providing support to families with children with a mental or physical disability. Services are provided directly through regional offices and indirectly by the funding of non-governmental agencies.

630. Family-care plans are reviewed annually or whenever necessary at the request of the family. Staff providing services are monitored through performance reviews.

631. Children's Special Services takes a lead in coordinating services. Communication systems are in place at a regional and provincial level with School Divisions, Child Day Care (centres), support services and agencies.

632. Children's Special Services recovers 50 per cent of 85 per cent of expenditures from Canada via the Canada Assistance Plan. The number of families served provincially, as of 31 December, 1992, was 1,520.

3. Article 18, para. 3: child-care and health-care services and facilities

633. The province provides essential health care services and facilities for treatment to children free of charge.

634. The Department of Health and Department of Education and Training play an active role in promoting child-care and health issues, including childbirth, education to expectant parent(s), immunization programmes for children, health education during primary and secondary schools (proper hygiene, sex, diet, etc.), and environmental controls (clean drinking water, air quality inspections, etc.).

635. The legislation under which licensed child-care services are delivered in Manitoba is *The Community Child Day Care Standards Act* and Manitoba Regulation 62/86. The legislation is comprehensive and includes standards for licensed child care in day-care centres, nursery schools and family day-care homes.

636. The Child Day Care Branch of the Manitoba Government is responsible for licensing, funding and monitoring day-care facilities. These facilities care for children from 12 weeks to 12 years of age. The Child Day Care Branch also assists low-income families with their day-care fees, and classifies all child-care workers in Manitoba. The Branch is part of the Department of Family Services, and reports to an Assistant Deputy Minister in the Department. Regional Child Day Care Branch staff fulfil programme requirements in all regions of Manitoba outside Winnipeg.

637. Licensed child-care services are provided as a support to Manitoba families, enabling parents to work, attend school or training programmes, seek employment, or undergo medical treatment. Children are cared for in settings designed to encourage their healthy, emotional, intellectual and physical development.

638. Day-care centres and licensed family day-care homes are monitored through regular scheduled or unscheduled visits by programme staff who have early childhood education backgrounds. These facilities are also subject to public health and fire safety laws and regular inspection by these officials.

639. Child-care providers who do not meet the legislated standards are issued warnings and may be subject to closure, through revocation of their licence. They may also be subject to a fine for operating without a licence.

640. Manitoba's licensed child care system has expanded dramatically since the legislation was enacted in 1983. Since 1988, funding has increased by over 70 per cent. The number of licensed spaces has also increased. This has met the needs of a growing number of parents.

641. The Children with Disabilities programme enrols hundreds of children annually in day-care settings, providing additional resources to support them to integrate with non-disabled children. Considered a model in Canada, this programme has received national attention.

642. The Child Day-Care Branch cost-shares some expenditures through the federal Government's Canada's Assistance Plan. Through this arrangement, Manitoba is able to recover 50 per cent of the costs of providing financial assistance to parents for their day-care fees, and some of the costs of grants to non-profit day-care centres.

643. The Child Day-Care Branch has fairly frequent contact with other provincial-territorial governments in order to share information about programme developments.

644. There are three major non-government, membership-based child-care organizations in Manitoba. The Manitoba Child Care Association (MCCA) represents hundreds of non-profit day-care centres and individual child-care workers. The Family Day-Care Association of Manitoba (FDCAM) represents hundreds of licensed family day-care providers. Manitobans for Quality Child Care (MQCC) represents private owner and operators. Child Day-Care staff meet regularly with the MCAA and have frequent contact with the FDCAM and MQCC.

645. As of 31 December, 1992, there were 507 day-care centres with 15,514 spaces and 598 family day-care homes with 3,430 spaces, for a total of 1,105 facilities with 18,944 spaces.

4. Article 26: social security

646. *The Social Allowances Act* provides that no resident of Manitoba will lack the goods and services essential to health and well-being. The Act provides for financial assistance to be provided to families and their children in financial need throughout the province. The Act and accompanying regulations set the rates for assistance, the services to be provided, and the terms for assessing eligibility. The assistance programmes are delivered by the Government of Manitoba, as well as each municipality in the province according to the terms set out in the legislation. In total, the Government of Manitoba and the municipalities spend $380.6 million serving 48,400 families including 31,600 children in 1992/93. Costs for assistance are shared equally with the federal Government under the Canada Assistance Plan.

647. *The Social Services Administration Act* provides authority for the Child-Related Income Support Plan. This programme provides for supplemental financial assistance for the cost of raising children to working families. This programme is administered by the Government of Manitoba and has served 6,350 families including 14,500 children, at a cost of $5.0 million in 1992/93.

F. Other

648. Youth committed to custody in Manitoba are provided with all requirements for their basic health and welfare. Services provided include medical and nursing services, psychological assessment and counselling, clothing, a balanced and adequate diet, shelter, education, spiritual and cultural activities, and recreation.

G. Education, leisure and cultural activities

1. Article 28: education, including vocational training and guidance

649. *The Public Schools Act* requires compulsory attendance at school by school-age children (6 to 16 years of age). Primary and secondary education is provided free of cost.

650. Vocational or higher education guidance is provided in elementary and secondary schools under guidance programmes, without charge.

651. The Community and Youth Correctional Services Branch operates educational programmes at schools in its two youth custody institutions: the Agassiz Youth Centre and the Manitoba Youth Centre. These educational programmes include:

(a) Academic grade credits for high school matriculation;

(b) Special education programming for learning-disabled youth;

(c) Literacy and numeracy upgrading;

(d) Native cultural awareness programming;

(e) English as a second language;

(f) Academic upgrading;

(g) Work experience.

652. The same youth custody institutions provide spiritual and cultural activities for the youth in care, including chaplaincy and Native cultural and spiritual activities (e.g. sweat lodges, pow wows, sweetgrass).

2. Article 29: aims of education

653. The aims of education in the Province of Manitoba are oriented toward the individual and the community. The individual component of education includes personal, psychological and physical development. The communal component of a child's education includes learning to respect other individuals and to contribute to society.

654. *The Manitoba Act* recognizes the importance of providing French-language education to the Franco-Manitoban community. The province is in the process of setting up a new francophone school division.

3. Article 31: leisure, recreation and cultural activities

655. Children are provided the benefit of leisure, recreation and cultural activities from various institutions.

656. The school boards have established compulsory physical education and arts programmes, as well as recess and lunch periods to break the routine of school work.

657. The province supports the development of parks, playgrounds and other recreational facilities.

658. The public libraries in the province provide a wide range of written and visual material allowing children to be engaged in cultural, artistic, recreational and leisure activities.

H. Special protection measures

1. Article 22: refugee children

659. Refugee children are protected under *The Child and Family Services Act*. Refugee families with children are eligible for social assistance.

2. Articles 37, 39, 40: children in conflict with the law

660. Special measures apply when children come into conflict with the law.

661. The Community and Youth Correctional Services Branch offers an Alternative Measures programme as an alternative to formal court proceedings for offenders who allegedly committed less serious offences. This offers an opportunity to the young person to accept responsibility for illegal acts by redressing wrong. It is done frequently with participation, and for the benefit of the victim.

662. Justice Committees, assisted by Community Participation Agreements with organizations, have facilitated involvement of the community in operating the Alternative Measures Programme. Community involvement in the Alternative Measures Programme have expanded rapidly and continue to grow in the 1990s.

663. The Manitoba Alternative Measures Programme consists of the following:

(a) Compensation by the young person to the victim, by cash, in kind, or by way of personal service;

(b) Mediation or conciliation between the young person and the victim;

(c) An interview or interviews with the young person and the parents or guardian to examine the circumstances of the offence, any action taken by the young person to make amends and any action taken by the parents as a consequence;

(d) A written or oral reprimand;

(e) A curfew;

(f) Attendance at a crime prevention class, at which participants examined the reasons people commit offences and the consequences of offences for offenders in society, and learn ways to improve their conduct;

(g) Completion of a crime prevention project, such as an essay or poster;

(h) Performance of a community service that is unpaid work for the benefit of the community;

(i) Referral to a societal, educational or health service or any combination of these services for appropriate follow-up;

(j) Any combination of the preceding measures;

(k) Traditional consequences that involve culturally appropriate types of measures; and

(l) Parental action.

3. Article 34: sexual exploitation and sexual abuse

664. Under *The Child and Family Services Act*, a child in need of protection includes a child who is abused or is in danger of being abused, or who is subject to aggression or sexual harassment that endangers the life, health or emotional well-being of the child. The definition of abuse includes sexual exploitation of a child with or without the child's consent. The Act and Regulations require immediate investigation of all suspected child abuse cases. Regulations and administrative guidelines also require close collaboration with health professionals and the police in the investigation of suspected physical or sexual abuse cases.

665. There is some reluctance to proceed with criminal cases involving the abuse of young children despite changes to *The Canada Evidence Act* and *The Criminal Code* which allow for the admission of unsworn evidence. Difficulties have also been encountered in providing effective services to adolescents working as prostitutes.

666. Priorities for Manitoba include amendments to provincial legislation to further strengthen and clarify provisions relating to the reporting and investigation of child abuse cases and innovative approaches to working with youth.

4. Article 30: children belonging to a minority or an indigenous group

667. *The Child and Family Services Act* begins with a Declaration of Principles which states that families are entitled to services which respect their cultural and linguistic heritage, and that Indian bands are entitled to receive child and family services in a manner which respects their unique status as Aboriginal peoples. These principles are guidelines for agencies and courts. The Act also requires that apprehending agencies notify the agency serving the appropriate Indian band where the apprehended child is registered or entitled to be registered as an Indian under the federal *Indian Act*.

668. In addition, Manitoba has implemented Native child placements protocols which give priority to the placement of children within their communities of origin and with extended family members. Agencies are also required to use interpreters to communicate with parents who do not speak English. Services in French are to be available when requested.

669. Ongoing issues in the delivery of Aboriginal child and family services include the governance of First Nations agencies, services to status Indians off reserve, and services to non-status Indians and Métis. There continues to be a disproportionate number of Aboriginal children receiving services or in the care of agencies. While accurate statistics are not yet available, the number of children placed by agencies is over 50 per cent of the total number of children in care.

5. Article 32: economic exploitation

670. Children in Manitoba are protected from engaging in work that would constitute a threat to their health or education under *The Employment Standards Act*, as well as other provincial statutes. The Act regulates conditions of employment and sets minimum ages for employment.

671. *The Employment Standards Act* of Manitoba defines a "child" as a person under the age of 16 years and an "adolescent" as a person who has reached his or her sixteenth birthday but not the eighteenth birthday. Under the Act, no child shall be employed except with the written permission of the Minister and in accordance with a permit issued by the Department of Labour. A child shall not be employed in any manner, work or service detrimental to safety, health or moral well-being.

672. Applications for a permit must indicate the signed concurrence of the parent or guardian of the applicant and school authorities. In addition, the prospective employer must guarantee acceptable workplace conditions.

673. Section 43 of the Act prohibits the employment of a child in any building or upon premises where processing, manufacturing, cleaning, repairing or servicing of articles, materials or machinery by manual labour or the use of machinery is carried on. This section also provides that regulations may be made prohibiting or regulating the employment of adolescents where work is deemed to be dangerous, unwholesome or unhealthy.

674. A child who is permitted to work is protected with respect to all terms and conditions under the Act including general holidays, weekly day of rest and minimum wage, as are all employees covered by the Act.

675. *The Public Schools Act* requires that every child of compulsory school age (under the age of 16 years) attend school unless specifically excused by the Minister responsible for the Act in accordance with the Act and Regulations. The Act prohibits the employment of an individual during those hours in which the individual is required to be in attendance in the school.

676. Under the Operation of Mines Regulation, enacted pursuant to *The Workplace Safety and Health Act*, the employer may not employ or permit the employment of a person under the age of 18 years in the underground workings of a mine or at the face of an open pit or quarry working. Other provincial legislation may also affect the employment of youths. As an example, *The Liquor Control Act* prohibits the employment of persons under the age of 18 years in the sale, handling or serving of liquor.

6. Article 33: drug abuse

677. Manitoba school boards provide drug education through its health education programme. The programme educates children in the dangers of drug abuse.

7. Article 35: sale, trafficking and abduction

678. *The Child and Family Services Act* prohibits the sale, trafficking and abduction of children.

V. ONTARIO

A. Definition of the child

679. The *Age of Majority and Accountability Act* provides that for the purposes of any law within provincial jurisdiction "Every person attains the age of majority and ceases to be a minor on attaining the age of 18 years". However, in accordance with our common-law tradition, the rights conferred upon attaining majority relate primarily to private law matters, such as the power to make contracts and to deal with property. The *Age of Majority and Accountability Act* recognizes that specific legislation may determine the age at which an individual may be treated as an adult for the purposes of that particular legislation.

680. In Ontario, for the purposes of the Convention, the law applicable to the child generally includes all persons below the age of 18 years. In some cases, the law applicable to the child's rights are laws of general application that apply equally to children and adults. Where a person is treated as an adult before attaining 18 years of age, generally the laws applicable to the person as an adult are also relevant for the purposes of the Convention, especially where the Convention is parallel to the *Canadian Charter of Rights and Freedoms*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*.

681. A child attains majority at 16 years of age in the following circumstances:

(a) Article 11, p. 2, and article 35: the *Hague Convention on Civil Aspects of International Child Abduction* ceases to apply when the child attains 16 years (*Children's Law Reform Act*);

(b) Article 19: the special child protection provisions of Part III of the *Child and Family Services Act* cease to apply to persons 16 years of age or older (unless the child is already subject to a court order) since children over 16 years are generally entitled to withdraw from parental control. (Persons over 16 years are protected by laws of general application);

(c) Article 27, p. 2: parental responsibility to provide financial support ceases where a child 16 years of age or older has withdrawn from parental control (*Family Law Act*); paragraph 3: children under 16 years of age must be with their family to be eligible for social housing;

(d) Article 40: the special provisions of the *Provincial Offences Act* cease to apply where the person was 16 years of age at the time of the offence.

B. Legal minimum ages for specific purposes

682. In Ontario, the right to obtain legal counsel without parental consent is based not on age but on capacity to retain and instruct a lawyer.

683. The *Consent to Treatment Act, 1992* (in force on proclamation) clearly establishes the right of people in Ontario to make informed decisions about their own health treatment, if mentally capable to do so, regardless of age. The Act applies to health practitioners in all setting. The Act specifies certain information requirements about rights if a person aged 14 or over is determined by the health practitioner who proposes treatment to be mentally incapable of making the treatment decision. A written notice is read and given to the person, saying that he or she can apply for an independent review of the finding of incapacity, and that he or she can meet with an independent rights adviser on request. In psychiatric facilities, the meeting with a rights adviser is mandatory for findings of incapacity with respect to treatment when the person is 14 or over.

684. For the purpose of compulsory school attendance, every child shall attend school until the child attains the age of 16 years (*Education Act*). The minimum ages at which young people in Ontario may begin employment are set by regulation under the *Occupational Health and Safety Act*. See "Economic exploitation", article 32. The *Marriage Act* provides that any person who is of the age of majority may obtain a marriage licence or be married by publication of banns. If a person is under 18 but is 16 years of age or more, section 5 requires consent of parent(s) or guardian unless the "child" is a widow, a widower or divorced. A child under 12 years of age may not be convicted for a provincial offence (*Provincial Offences Act*). A child under the age of 12 years cannot be admitted to a secure treatment programme unless the Minister consents (*Child and Family Services Act*). Under the *Liquor Licence Act* liquor may not be sold or supplied to a person under 19 years of age.

C. General principles

1. Non-discrimination: article 2

685. The Ontario *Human Rights Code* provides legal protection for the equal rights and opportunities of all persons without discrimination. It specifies that "Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or handicap" (section 1). Unlike the Charter of Rights, under the *Human Rights Code*, protection against discrimination on the basis of age is limited. In the first instance, only those 18 and over can bring complaints on these grounds; in the second, individuals who are 16 or 17 years old, and have withdrawn from parental control cannot be discriminated against in seeking accommodation on the basis of their age.

686. The *Children's Law Reform Act* abolishes any distinction between the status of children born in wedlock and born out of wedlock.

687. According to the *Education Act*, school boards are required to have an ethno-cultural equity and anti-racism policy to ensure equitable education for all students and to eliminate systemic barriers and inequities for Aboriginal and racial and ethnocultural minority students.

688. Under Ontario's Corporate Native Affairs Policy Framework (1985), Aboriginal peoples should receive provincial programmes and services on a non-discriminatory basis to meet their needs, to the extent that provincial legislation of general application applies to them and to the extent that ministry budget allocations and programme planning permit.

2. Best interests of the child: article 3

689. Custody and access disputes between parents are to be determined on the basis of the best interests of the child (*Children's Law Reform Act*).

690. The office of the Official Guardian in the Ministry of the Attorney General has a wide variety of duties to represent the legal interests of children (*Courts of Justice Act*. See "Respect for the views of the child", article 12).

691. The *Child and Family Services Act* deals with a broad range of services for children in care, child protection, adoption, and voluntary services. Section 1 declares that the purposes of the Act are "as a paramount objective, to promote the best interests, protection and well-being of children". Other key principles are that when families need help, that help should support and strengthen the family unit with the least amount of interference, and wherever possible, be based on common consent, that the least restrictive or disruptive course of action possible should be followed and that children should receive services that are tailored to their needs and respect differences in culture, religion, background and physical and mental development. It is also recognized that Aboriginal people should be entitled to provide their own child and family services where possible and that all services to Aboriginal children and families should be provided in a manner that recognizes their culture, heritage and traditions and the concept of the extended family.

692. The best interests of the child in the context of child protection (section 37(3)) and adoption (section 136(2)) are elaborated with statutory criteria for the guidance of the courts and other decision-makers.

693. Subsection 37(4) of the Act further specifies that, in the case of Aboriginal children, the importance of preserving the cultural identity must be considered in making decisions in the best interests of the child.

694. Under the *Change of Name Act*, if a required consent to a name change cannot be obtained or is refused, the court can make an order dispensing with the consent. The order shall be made in accordance with the best interests of the child.

695. Article 3, paragraph 3 (Standards), Part IX (Licensing) of the *Child and Family Services Act* (CFSA) and the CFSA Regulations provide direction to

service providers to ensure the protection and safety of children receiving residential services or being placed for adoption. These directions are given in detail in the Children's Residence Licensing Manual, the Young Offenders Manual, the Children in Care Manual and the Foster Care Manual. Compliance with standards and regulations is monitored by programme supervisors and licensing officers within the Ministry of Community and Social Services.

696. Children's Aid Societies (CAS), which are the child protection authorities in Ontario, are also directed by the Revised Standards for Investigation and Management of Child Abuse Cases, under the *Child and Family Services Act*. Compliance with these standards is monitored both by the Board of Directors of each CAS and by provincial programme supervisors.

697. The province is responsible for the licensing and regulation of child-care programmes. All child-care centres, nursery schools and private home day-care agencies (with more than five children) must be licensed. Standards are outlined by the *Day Nurseries Act* and its regulations governing the accommodation, facilities, equipment and services to ensure the health and safety of children, including training requirements for staff.

698. The Ministry of the Solicitor General and Correctional Services has several mechanisms in place to ensure that its institutions, services and facilities responsible for the care of children in detention conform with established standards in the areas of safety, health, the number and suitability of staff and competent supervision. These mechanisms are well documented in the ministry's YOA Operational Policy and Procedures Manual, the Residential Services Standards and Guidelines, the Probation and Parole Manual and the *Ministry of Correctional Services Act*.

D. Right to life, survival and development (art. 6); respect for views of the child (art. 12)

699. In general, there is no prohibition against children expressing their views. In many cases, there is a positive legal duty to consider the child's views. For example, in private custody disputes, the courts shall consider "the views and preferences of the child, where such views and preferences reasonably can be ascertained" (*Children's Law Reform Act*).

700. In civil proceedings involving a minor, there must be a litigation guardian who is to act in the best interests of the minor (Rule of Civil Procedure). The Official Guardian provides free legal representation for minors where the court directs representation in child protection proceedings (*Child and Family Services Act*); where a child is admitted to a secure treatment programme (*Child and Family Services Act*); where a minor is consenting to the surrender of his or her child for adoption (*Child and Family Services Act*). The Official Guardian may be requested to investigate and report to the court on all matters concerning custody and access (*Courts of Justice Act*).

701. Children are not disentitled to legal aid (i.e. State paid assistance of private lawyers) by reason only of their age where the general eligibility criteria are met. In some cases, the granting of legal aid is mandatory. Other cases will be considered on their merits (see generally the *Legal Aid Act*). A free legal aid clinic has been established solely to provide advocacy

for children and youth. The *Evidence Act* enables a child to give evidence in legal proceedings even though the child does not understand the nature of an oath.

702. Under the *Child and Family Services Act* (CFSA), persons providing child development, child treatment, child welfare, community support and young offenders services "shall ensure that children and their parents have an opportunity where appropriate to be heard and represented when decisions affecting their interests are made and to be heard when they have concerns about the services they are receiving ...".

703. The *Child and Family Services Act*, concerning rights of the child receiving residential services, states that "a child in care has a right to be consulted and to express his or her views, to the extent that is practical given the child's level of understanding whenever significant decisions concerning the child are made ...", and states specific points at which the child has a right to consent or to be represented when decisions are made.

704. There are specific sections in many parts of the Act, including Voluntary Services, Child Protection, Young Offenders, Rights of Children, Extraordinary Measures and Adoption which concern the rights of children, the requirement that children be informed of their rights, and the establishment of complaints procedures or review mechanisms which can be used by children receiving services under the Act. The Act also determines how the child is to be involved in decisions regarding services he or she is receiving, as well as the manner in which the child's wishes will be ascertained and under what circumstances.

705. The Office of the Child and Family Service Advocacy is established under the *Child and Family Services Act* to coordinate and administer a system of advocacy on behalf of young persons and families who are seeking or receiving services under the Act. The goal of the Advocacy Office is to assist and encourage all service providers to respond effectively and promptly to the needs of the young person and his or her family. A young person receiving or seeking services under the Act is entitled to approach the Office of Child and Family Services Advocacy for assistance. It is the responsibility of the service provider to maintain an up-to-date written statement of policies and procedures governing the concerns or complaints of residents.

706. Under the *Change of Name Act*, the legal changing of a child's name requires the written consent of the child, if the child is 12 years of age or older. A person over 16 who complies with the requirements of the *Change of Name Act* may legally change his or her name. If the person or persons having lawful custody of the child will not consent to the change of name, the child may apply to the court for an order dispensing with the consent. The court shall determine the matter in accordance with the best interests of the child.

707. Under the *Marriage Act*, if a parent or guardian whose consent to a child's marriage is required under section 5 is not available or unreasonably or arbitrarily withholds consent, the child may apply to a judge without the intervention of a litigation guardian for an order dispensing with the consent.

708. Children's rights in consenting to health treatment under the *Consent to Treatment Act, 1992* are described in paragraph 683 above.

709. The Consent and Capacity Review Board is an independent board that, on application, holds hearings on findings of incapacity.

E. Civil rights and freedoms

1. Name and nationality (article 7)

710. Under the *Vital Statistics Act*, a child's birth must be registered within 30 days of the birth. As a general rule, under section 10, a child shall be given at least one forename and a surname.

711. The right to be cared for by both parents is recognized in the *Children's Law Reform Act*, which declares that the father and mother of a child are equally entitled to custody of the child.

2. Preservation of identity (art. 8)

712. Under the *Vital Statistics Act*, a child may be given a certified copy of his or her birth registration, which would disclose the mother or father or both. If a child has been adopted, as a matter of law and policy, the child cannot obtain a copy of the original birth registration disclosing biological parentage; this information can only be obtained through the adoption disclosure process under the *Child and Family Services Act* or by court order.

713. Under the *Change of Name Act*, or upon adoption under the *Child and Family Services Act*, if a child is 12 years of age or older, the child's name cannot legally be changed without his or her written consent, unless a court dispenses with the consent in the best interests of the child.

3. Freedom of expression (art. 13)

714. The *Libel and Slander Act* defines the torts, specifies a number of exceptions for "privileged reports" and outlines the procedures for court action.

715. Ontario's public libraries support the child's right to freedom to seek and receive information and ideas in a broad range of formats. Information and ideas are available to children through materials, programmes, services and personalized staff assistance. In most instances, there is no fee for membership in Ontario's public libraries. Where there is a fee, it is nominal.

716. Recreational programmes concentrate on providing children and youth with an opportunity to express their views in programme design and execution.

717. The *Child and Family Services Act* deals with the rights of communication for children in care, including the right to speak with, visit and receive visits from members of his or her family regularly, to speak in private with and receive visits from (i) the child's solicitor, (ii) another person representing the child, including an advocate appointed for the child by the Office of Child and Family Service Advocacy, (iii) the Ombudsman appointed

under the *Ombudsman Act* and members of the Ombudsman's staff, and (iv) a member of the Legislative Assembly of Ontario or the Parliament of Canada; and (v) to send and receive mail that is not read, examined or censored by another person.

4. Access to appropriate information (art. 17)

718. Guidelines for the protection of children from inappropriate material exist in the *Theatres Act*, which regulate the times and ages at which children may attend movie theatres, and the ages at which children may view certain classifications of films.

719. The *Liquor Licence Act* and regulations prohibit advertising aimed at those under the legal drinking age.

720. Ontario's public libraries purchase and make available information and materials from a diversity of national and international sources. Content, quality of presentation and age appropriateness are primary purchase criteria for acquisition of material for Ontario public libraries. The majority of Ontario's public libraries are aware of, support, and endorse the principles and activities of the Canadian Children's Book Centre and the International Board on Books for Young People (IBBY-Canada). The purchasing power of Ontario's public libraries encourages and supports the production of children's materials. Ontario's public libraries are a major vehicle for the dissemination of children's books.

721. Through the ministry's funding of cultural agencies such as TVOntario, the Ontario Film Development Corporation (OFDC), and the Ontario Publishing Centre, the province encourages and supports the dissemination of information and material of social and cultural benefit to all Ontarians, including children. As an educational broadcaster, TVOntario plays a particularly prominent role in this regard. Both TVOntario and the OFDC moreover, are involved with co-production arrangements thereby facilitating the dissemination of such material from a diversity of sources.

722. A wide range of publishers, including those of children's books, are eligible for provincial funding. In this way, the province contributes to the production and dissemination of children's literature.

5. Freedom of thought, conscience and religion (art. 14)

723. Under the common law rules which apply in Ontario, the persons who have lawful custody of a child have the right to direct the child's religious training, subject to the best interests of the child (Delaurier v. Jackson, [1934] Supreme Court Reports 149).

724. With respect to children in residential care, the *Child and Family Services Act* provides "A child in care has a right ... to receive the religious instruction and participate in the religious activities of his or her choice ...".

725. Public schools and school programmes, including opening or closing exercises and education about religion, must not indoctrinate or give primacy to any particular religious faith. Public schools may provide education about

religion to enable students to acquire knowledge and awareness of a variety of the religious traditions that have shaped and continue to shape our world. The programmes enable individuals to understand, appreciate, and respect various types of religious beliefs, attitudes, and behaviours. The purpose of these programmes is not to instill the beliefs of any particular religion.

726. Roman Catholic separate schools are denominational schools responsible for their own religious education programmes. The right to these schools was guaranteed to Roman Catholics prior to Confederation in 1867 and is retained in the Constitution of Canada.

727. Private schools are categorically distinct from the general definition of "school" as stated within the *Education Act*. Other than the general obligation to provide "satisfactory instruction", the *Education Act* places no substantive standards on private schools. By definition, they may offer programmes in religious education, which by their nature may be doctrinal.

6. Freedom of association and of peaceful assembly (art. 15)

728. Any limits on freedom of assembly permitted by the Canadian Charter are subject to the laws relating to trespass to private property, which apply to all persons, regardless of age (*Trespass to Property Act*).

729. The *Child and Family Services Act* imposes a curfew for young people under the age of 16 years. The Act requires parents of children under the age of 16 years to ensure that these children are not in a public place between the hours of midnight and 6 a.m. or in a place of public entertainment unaccompanied during the same times. A peace officer may apprehend any child in such a place and return them to their home or to a place of safety.

7. Protection of privacy (art. 16)

730. A child in residential care has the right to reasonable privacy, uncensored mail, receive visits, personal property, religious interaction, education, recreation, food, clothing, medical and dental care and a plan of care under Part V (Rights of the Child) of the *Child and Family Services Act*.

731. No person, other than prescribed school authorities, shall have access to a school record of a person under 18 without the written consent of the person's parents or guardian (*Education Act*).

732. Ontario's access and privacy legislation (the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*) protects the rights of all individuals, regardless of age, to privacy from other individuals as well as from government authorities. The legislation applies to provincial and local government bodies as well as to other public bodies such as school boards and police forces.

733. The legislation protects privacy in a practical way by allowing any individual to complain to an independent body, the Information and Privacy Commission of Ontario, about alleged breaches of privacy. The complaint process is free of charge and without restriction. The Commission has the

power to investigate breaches of privacy and to order a public body to destroy personal information improperly collected and to refrain from the activity in the future.

734. In Ontario, any person, regardless of age, may take civil proceedings to recover damages resulting from defamation. The *Libel and Slander Act* regulates such proceedings.

F. Family environment and alternative care

1. Parental guidance (art. 5)

735. The *Children's Law Reform Act* provides that the mother and father are equally entitled to custody of the child and have the duty to exercise the common law rights and responsibilities of parents. Any person – such as members of the extended family or of the community – may apply to a court for custody of the child. If they are granted custody, they have the same rights and responsibilities as a natural parent. Anyone who has rights and responsibilities of a parent "must exercise those rights and responsibilities in the best interests of the child" (section 20 (2)). In any judicial determination of custody rights, "the court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them" (section 65).

736. In providing child development, child treatment, child welfare and other services, the *Child and Family Services Act* "recognizes that while parents often need help in caring for their children, that help should give support to the autonomy and integrity of the family unit and, wherever possible, be provided on the basis of mutual consent ...".

737. The Act also states that "all services to Indian and Native children be provided in a manner that recognizes their culture, heritage and traditions and the concept of extended family". In Part X, "customary care" is defined as "... the care and supervision of an Indian or Native child by a person who is not the child's parent, according to the custom of the child's band or Native community."

2. Parental responsibilities (art. 18, paras. 1-2)

738. Under the *Children's Law Reform Act*, "the father and mother of a child are equally entitled to custody of the child". Persons with parental rights and responsibilities "must exercise those rights and responsibilities in the best interests of the child".

739. In any judicial determination of custody rights "the court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them".

740. Parents are assisted in child-rearing by government-funded prevention services that promote the healthy development of children. Such services include parent support groups, parent effectiveness training, counselling services, distribution of educational materials for parents, provision of home-maker services through the children's aid society, community development

programmes that empower parents living in high-risk communities. Ontario also funds parent relief services for families with disabled children.

741. Parents may enter into voluntary agreements with a children's aid society when the parents need assistance caring for a child. Services provided by the society may include residential placement for the child.

742. The Government aims to support local recreation programmes, which accommodate the needs of working parents.

3. Separation from parents (art. 9)

743. The *Children's Law Reform Act* sets out the procedures for resolving disputes about custody of the child where the parents are living apart. Applications are decided by courts on the basis of the best interests of the child. All interested parties, including the child, are given an opportunity to participate in the proceedings and make their views known. The court may order an assessment of the child or the parties, or may request the Official Guardian to conduct an investigation and prepare a report (*Court of Justice Act*).

744. Where the parents live separately, the parent without custody is entitled to visiting rights unless a court order or private agreement provides otherwise. Judicial determinations of visiting rights are also made on the basis of the best interests of the child. Ontario has established pilot projects in a number of areas to provide supervised visits in cases where problems may arise between the parents or the children.

745. The *Child and Family Services Act* specifies the grounds on which the State may, without the parent's consent, intervene to protect children. A child is in need of protection where the child has suffered or is at risk of suffering physical, sexual or emotional harm; needs treatment for a medical, mental, emotional or developmental condition and the person in charge refuses or is unable to provide that treatment; is under 12 and has killed, seriously injured another person or caused serious property damage and the person in charge refuses or is unable to consent to treatment necessary to prevent a recurrence; has a history of causing personal injury or property loss or damage and the person in charge encourages the activity or fails adequately to supervise the child; has been abandoned or has had the parents die without making adequate provision for the child's future care or the parents refuse to resume custody after a residential placement; is brought before the court with the consent of the parents and, if the child is over 12, with the child's consent.

746. A child is normally taken into care only if other measures have been tried or considered. If a child must be brought into care, the children's aid society develops a plan of care that will result in either the child's return home to an improved family situation or placement in a permanent situation which will meet his or her changing needs.

747. There are specific legal procedures which must be followed when taking a child into care. A court hearing must be held to determine whether the child is in need of protection. The child is entitled to legal representation at any stage of the court proceedings. If the child does not have legal

representation, the court may direct that such be provided. In those situations when a court order is made for a child to be taken into care, application regarding visiting rights may be made. Generally, the court will permit visits except where it is not considered to be in the child's best interests.

748. When the child is an Aboriginal person, the preservation of the child's cultural identity shall be taken into consideration. If the court decides that it is necessary to remove an Aboriginal child from the care of the person who had charge, the child shall normally be placed with a member of the child's extended family, band or Aboriginal community or another Aboriginal family.

749. The Ontario Provincial Police has formal procedures for carrying out court orders to assist parents and guardians who have been wrongfully deprived of custody or visiting rights by the other parent. Procedures have also been implemented in Police Orders to buttress a federal government initiative aimed at transporting children who have been abducted by a parent who does not have legal custody.

750. The Young Offenders Act Operational Policy and Procedures Manual and *Ministry of Correctional Services Act* require that the young person's parents be contacted whenever there is detention, imprisonment or death of a youth.

4. Recovery of maintenance (art. 27, para. 4)

751. Social welfare agencies may make an application against a parent for support of a child if the agency is providing benefits to the child (*Family Law Act*).

752. The *Family Support Plan Act* creates a government agency to collect court awarded support for the child. Employers are obliged to deduct payments from the parent's wages and to forward them to the Family Support agency for payment to the child.

753. The *Reciprocal Enforcement of Support Orders Act* establishes a regime for agreements to reciprocally enforce support orders. At present, Ontario has agreements with all other provinces, 40 American states and 15 other countries.

5. Children deprived of a family environment (art. 20)

754. A fundamental goal of child protection legislation is to specify the grounds on which the State may, without the parents' consent, intervene to protect children. The *Child and Family Services Act* provides an objective minimum standard of care, concentrating on specific harms from which children must be protected. Among the twelve factors which must be considered when making decisions in the best interests of the child are cultural background, religious faith (if any), the child's relationships through blood or adoption order, the importance of continuity of care, the merits of plan for care as compared with staying with the parent, and the child's views and wishes.

755. The *Child and Family Services Act* incorporates rights for children in residential care, including children in foster care or those placed by an

order under the *Young Offenders Act*. The Act contains a listing of fundamental rights to which every child in residential care is entitled (see comments on article 12). Rights are enforced through a complaint and review procedure.

6. Adoption (art. 21)

756. Adoption of a child under the *Child and Family Services Act* is made by the court in the "child's best interest". The Act provides for adoption of children through a children's aid society, a private agency or an individual licensed under the Act. If the adoptive applicants are related to the child, they may apply directly to the court. The Act governs all aspects of placing a child for adoption in Ontario.

7. Illicit transfer and non-return (art. 11)

757. Ontario is party to the *Hague Convention on the Civil Aspects of International Child Abduction* (*Children's Law Reform Act*). As well, the Act discourages bringing abducted children into Ontario by denying recourse to the courts for custody orders unless the child is habitually resident or has a real and substantial connection with Ontario (*Children's Law Reform Act*, section 22). At the same time, there is a presumption in favour of recognizing custody orders made by tribunals outside Ontario and applications may be brought to enforce those orders (section 41). The court may order return of the child (section 40). To prevent abduction from Ontario by a person otherwise prohibited from removing the child, the court may direct the police to locate, apprehend and deliver the child to the person entitled to lawful custody (section 36). In all these matters, the court is required to consider the views and preferences of the child (*Children's Law Reform Act*, section 64).

8. Abuse and neglect (art. 19); recovery and reintegration (art. 39)

758. Measures for the protection of children from the forms of violence listed in article 19, other than those already mentioned under article 9, include a variety of programmes which support high-risk parents in child-rearing responsibilities; sexual abuse prevention and education programmes in schools; instructing persons entrusted with children about their duty to report child abuse; sexual abuse treatment programmes; other child and family counselling services; and the operation of the Child Abuse Register under the *Child and Family Services Act* to assist children's aid societies in monitoring and tracking of verified child abuse cases.

759. Every person who performs professional or official duties with respect to a child has a duty to report suspected child abuse. Failure to report is an offence.

760. As a result of the Review of the Safeguards for Children in Residential Care (1991), a number of initiatives have been undertaken, including standardized training for staff working with young offenders, improved reporting to the Ministry of Community and Social Services of serious occurrences within agencies, development of protocols for investigating abuse in residences for children with developmental or physical challenges, funding the development of a handbook of services for Aboriginal people, updated

licensing standards and procedures, development of a video explaining children's rights, increased advocacy measures for children and families, and funding the expansion of peer group networks for youth in residential placements.

761. The Government has introduced amendments to the *Regulated Health Professions Act* to deter and prevent the sexual abuse of patients by regulated health professionals, by requiring mandatory reporting of abusers, and improvements to the disciplinary process.

762. In cases of family violence, women with children are given high priority for social housing.

763. The Ontario Provincial Police are fully committed to ensuring that children are protected from all forms of physical or mental violence, injury or abuse, etc. Procedures have been established for working with children's aid societies in child protection cases under the *Child and Family Services Act*.

764. Ontario Provincial Police Community Services officers teach "street-proofing" programmes in the schools. Older students are made aware of issues surrounding "date rape" and sexual assault prevention. Many police detachments have assigned liaison officers to area high schools to deal with the growing problem of violence in schools.

765. The Ontario Police College provides training to new police recruits about child sexual abuse. In addition, it has recently developed, in conjunction with the Institute for the Prevention of Child Sexual Abuse, a programme for joint training of police officers and social workers.

766. Measures have been taken to protect the child from all physical or mental violence, injury of abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of correctional services. These are well documented in the policy manual entitled the YOA Operational Policy and Procedures Manual and the Residential Services Standards and Guidelines

767. The Province of Ontario and Aboriginal organizations are committed to work together in partnership to develop a comprehensive provincial strategy to respond to Aboriginal family violence. Aboriginal family violence refers not to isolated, specific incidents of abuse, but rather to the physical, mental, emotional, and spiritual welfare of Aboriginal individuals, families, extended families and nations. The Aboriginal Family Violence Joint Steering Committee was created in July 1991 to oversee an Aboriginal-driven community consultation process and a joint Aboriginal family healing strategy development process. The Committee is comprised of 8 Aboriginal provincial or territorial organizations and 10 Ontario ministries.

768. Children who are victims of criminal violence are entitled to financial compensation, including compensation for pain and suffering under the *Compensation for Victims of Crime Act*. Compensation is awarded by an administrative agency, the Criminal Injuries Compensation Board. The Official Guardian may make an application on behalf of an abused child (*Child and*

Family Services Act). Where it is in the interest of a victim of child abuse, any hearing for compensation may be closed to the public (*Compensation for Victims of Crime Act*).

769. A victim and witness programme in 13 jurisdictions assists children who are victims or witnesses of abuse and neglect to participate in court proceedings with minimum harm to the child's emotional and psychological well-being.

770. The Government has adopted a strategy for assisting persons who were child victims of abuse in provincial institutions. The strategy includes counselling and rehabilitation services.

9. Periodic review of placement (article 25)

771. The *Child and Family Services Act* provides for the establishment of Residential Placement Advisory Committees. Part of their mandate is to review certain residential placements of children away from their parents in residences with 10 or more beds.

772. The Act provides for a review of every child who is subject to an order for society supervision, society wardship or Crown Wardship. The Society, the child if he or she is at least 12 years of age or both, a parent of the child may apply for a status review. The Act provides for an annual review of every Crown Ward.

773. The Act provides for the establishment of the Custody Review Board, which, as part of its mandate, will review a young person's placement in a residence under the *Young Offenders Act* upon request from the young person.

774. Children may go to the Office of Child and Family Advocacy to address difficulties in placements.

775. Under the *Mental Health Act*, a child who is 12 years of age or older but less than 16, who is an informal patient in a psychiatric facility and who has not so applied within the preceding three months may apply in the prescribed form to the Review Board to inquire into whether the child needs observation, care and treatment in the psychiatric facility.

776. In determining whether the child needs observation, care and treatment in a psychiatric facility, the Review Board shall consider whether the child needs care of a kind that the psychiatric facility can provide, whether there is an alternative to the psychiatric facility in which the child's needs could be more appropriately met, the child's views and wishes (where they can be reasonably ascertained) and any other matter that the review board considers relevant.

G. Basic health and welfare

1. Survival and development (art. 6)

777. Refer also to article 24, "Health and health services".

778. Ontario's Income Maintenance Programmes (*General Welfare Assistance Act*, *Family Benefits Act*) ensure a responsive system of financial assistance to persons in need for a prolonged period of time and includes sole support parents raising children alone. Children are a priority in the calculation of these allowances, which include dental, vision and health care as well as special clothing allowances. There is a Handicapped Children's Programme for families caring for disabled children in their own homes.

779. Ontario is committed to improving the quality of life in Aboriginal communities through its Aboriginal agenda. Ontario's Aboriginal Community Capital Infrastructure Fund was established in 1991 to meet Ontario's commitment to improve the quality of life in Aboriginal communities through improving the health, safety and environmental conditions in Aboriginal communities by addressing existing infrastructure deficiencies. A portion of this Fund is committed to on-reserve, infrastructure programmes which address the critical need for safe drinking water and appropriate handling of sewage waste.

2. Disabled children (art. 23)

780. Ontario has a range of legislation, programmes and services relevant to the goals of article 23. They cover children with physical, mental, developmental, sensory and invisible disabilities. These supports enable disabled children to develop their capacities for independence, to grow up in non-institutional family and group settings and to participate in community life. Supports are offered in key areas: education, health, housing, recreation and social services. The majority of these services are free of charge. One exception is the Assistive Devices Programme which requires a contributory payment.

781. Four new pieces of legislation – The *Advocacy Act*, the *Consent to Treatment Act*, the *Substitute Decisions Act* and an amending act consequent on the other three – due to be proclaimed in 1995 – will provide safeguards for young persons with disabilities in the areas of self-determination, access to entitlements and the ensuring of due process.

782. The *Advocacy Act* provides aid to those vulnerable persons, 16 years of age and older, who, because of moderate or severe disabilities, illnesses or infirmities, find it difficult or impossible to say what they want, find out what their rights are or have their rights and wishes respected. The Act provides for individual advocacy, systemic advocacy, non-instructed advocacy and rights advice to those in danger of losing the right to make their own decisions. Rights advice was included in the Act to offset potential unwanted guardianship and substitute decision-making provided under two companion pieces of legislation, the *Substitute Decisions Act* and the *Consent to Treatment Act*.

783. The *Consent to Treatment Act* provides protection to individuals of any age in determining their own health care treatment. See paragraph 683 above.

784. The *Substitute Decisions Act* protects, among others, those 16 years of age and older deemed mentally incapable in matters related to their own personal care; that is, those who cannot make decisions or appreciate the consequences of their decisions related to health care, nutrition, shelter,

clothing, hygiene and safety. The Act provides safeguards against undue state intervention and defines the process whereby if incapacity is established, substitute decision makers can be appointed.

785. Ontario has undertaken a plan to establish a comprehensive community service system in which all developmentally handicapped people receive the support they require in their home communities, to phase out institutional placement of people with developmental handicaps and to strengthen supports for families caring for developmentally handicapped children at home.

786. In the first phase of this plan, children were transferred from institutions to community alternatives – community group or foster homes or in many cases in their own homes. Additional services support families in maintaining children with developmental disabilities at home. Such services include infant stimulation programmes, parent relief, assessment services, family support workers and special services at home which assist parents to provide for the needs of their child in the family's home.

787. Ontario also funds some speech and language services for persons with developmental disabilities. Over the past 15 years recreation services for children have increasingly supported children with disabilities in community-based settings. Since 1980, school boards have been required to provide special education programmes and services for all exceptional students (pupils with behavioural, communications, intellectual, physical or multiple exceptionalities). Within this context, school boards have been encouraged to provide a range of placements to meet the needs of these students. As a matter of policy, Ontario is committed to increasing opportunities for the integration of exceptional students into regular classrooms and is working on developing policies to support this direction.

788. The *Education Act* will be amended to remove references to "trainable retarded" students. This will allow for the implementation of a uniform procedure for the identification and placement of all exceptional pupils.

789. The Assistive Devices Programme was established in 1982 (International Year for the Disabled Person) to help parents obtain devices that would aid the rehabilitation of their physically disabled children. The programme facilitates the rehabilitation of children with long-term physical disabilities by helping to purchase basic, selected devices that promote the independence of the child.

790. The School Health Support Services Programme was established in 1984 to ensure that all children have access to the public education system. The programme provides nursing and therapy services to allow children with special health needs to attend school.

791. Children's Treatment Centres are facilities which provide therapy services to children and youth (up to 19 years) with physical handicaps and communication disorders. The core services are physiotherapy, occupational therapy and speech pathology.

3. Health and health services (art. 24)

792. Under the *Health Insurance Act*, the Ontario Health Insurance Plan provides for insurance against the costs of insured services on a non-profit basis to all residents of Ontario. The Act specifies that every person who is a resident of Ontario is entitled to become an insured person and "every dependent of an insured person is an insured person". In effect, all essential health care services are available to children without charge.

793. The boards of health in Ontario are responsible for ensuring health education to parents and child care-givers. Programmes give priority to parents most in need, such as parents of first babies, adolescents and mothers, low-income groups and developmentally handicapped parents.

794. Under the authority of the *Health Protection and Promotion Act*, mandatory health programmes and service guidelines have been developed for children and adolescents to enable them to attain their optimal level of physical, mental, emotional and social development. Services are geared to need: postnatal home visits as soon as possible but no later than four weeks after the infant's discharge from hospital, group sessions to parents and care-givers, and consultation to and referral of parents and care-givers, as appropriate.

795. A community programme, "Best Start", aims to reduce the incidence of low birth-weight (less than 2,500 grams). Two demonstration sites will receive funding from 1992 to 1998 to support and mobilize their communities to promote the health of women and families before, during and after pregnancy. The sites will develop health promotion strategies to address a wide range of risk factors associated with low birth-weight.

796. Under the Community Health Centre Programme, individual centres have identified teens as a priority group. Some centres target programmes to multicultural youth and street youth.

797. A Children's Health Strategy is being developed with a goal to maintain or improve the well-being of children and youth in the province.

798. With respect to article 24, paragraph 3, (abolishing traditional practices prejudicial to the health of the child), the College of Physicians and Surgeons of Ontario announced in March 1992 that female circumcision, excision and infibulation by a physician who is licensed in Ontario will be regarded as professional misconduct.

799. One of the 10 Essential Cross-curricular Learning Outcomes identified in the Ministry of Education and Training Common Curriculum, Grades 1-9 (February 1993), states that students will demonstrate an understanding of the role of personal health in our lives and demonstrate the ability to make wise and safe choices for healthy living. Health education is a mandatory component of education in Ontario from the primary division up to and including the compulsory credit in physical and health education required for graduation from secondary school.

4. Social security and child care services and facilities (arts. 26, 18, para. 3)

800. See article 6 concerning Ontario's Income Maintenance Programmes.

801. The Ministry of Community and Social Services is responsible for the development, design and monitoring of the child-care system in the province. The four main goals of the child-care programme are: health child development; health, stable families and communities; women's equality in the workforce; and economic renewal.

802. At present, there are no restrictions on use of child-care services, where the programmes exist. Handicapped children are equally able to use programmes.

5. Standard of living (art. 27, paras. 1-3)

803. Under the *Family Law Act*, "Every parent has an obligation to provide support, in accordance with need, for his or her unmarried child who is a minor ... to the extent that the parent is capable of doing so". (Support obligations between divorcing parents are dealt with under the federal *Divorce Act*).

804. Children in needy families are housed directly through the Ontario Housing Corporation (the province's public housing agency with 84,000 units) or in community-based non-profit groups that provide an additional 113,000 units of affordable housing with help from the Ministry of Housing (*Housing Development Act*, *Ontario Housing Corporation Act*).

805. Altogether there are 155,000 children (aged 0 to 17 years) in rent-geared-to-income units in public housing and in geared-to-income non profit units which are cost-shared with the Federal Government. Between 1986 and February 1993, approximately 57,000 new units of community-based non profit housing were built and an additional 28,000 are under development. To meet increasing needs, in 1992, the Province announced "jobsOntario" Homes under which an additional 20,000 units of community-based non-profit housing will be built. Ten per cent of this housing, or 2,000 units, will be for Aboriginal people living off-reserve.

806. Ontario's housing policy is concerned not only with the availability of basic shelter, but also with the quality of life in social housing. Accordingly, support is given to the development of tenant or community-based services by providing amenity space to tenants or community agencies to provide a broad range of services such as family resource centres, parent child drop-ins, clothing and food depots, recreation programmes, support groups and meals programmes.

807. Ontario continues to work towards improving the quality of life in Aboriginal communities through the implementation of the province's Aboriginal Agenda.

H. Education, leisure, cultural activities

1. Education, vocational training and guidance (art. 28)

(a) Paragraph 1 (a)

808. The *Education Act* provides for the attendance at school of compulsory school-age children (6 to 16 years of age). Primary and secondary education is free of charge. Rights to French-language elementary and secondary instruction are entrenched in the *Education Act* and *Canadian Charter of Rights and Freedoms*, with the objective of providing programmes, services and facilities equivalent to those of English-language education.

(b) Paragraph 1 (b)

809. Two recently released documents, the Transition Years Policy and Programme Requirements and the Common Curriculum, Grades 1-9 (February 1993) encourage schools to use a variety of instructional and organizations models in order to best meet the needs of students. The Common Curriculum also emphasizes exploration of work and career opportunities in all subject areas.

810. The curriculum in the senior division includes Cooperative Education and School Workplace Apprenticeship Programmes which provide the integration of school and work experience for students.

811. Every school board must, if so requested, provide (via direct offering or purchase) French-language education for every child where rights to language of instruction are protected under the *Canadian Charter of Rights and Freedoms*.

(c) Paragraph 1 (c)

812. All children have the opportunity to apply to attend institutions of higher education. Some programmes in these institutions have limited enrolment. Students with identified exceptionalities are entitled to specialized programmes and services. Programmes are available to help families deal with the cost of higher education.

(d) Paragraph 1 (d)

813. Information concerning occupations and post-secondary educational opportunities is available to all secondary school students. Guidance counsellors are available in all secondary schools to assist with educational and career decision-making.

814. All aspects of transition-to-work and further education are under review to ensure that elementary and secondary schools are adequately preparing students for their role in society and the world of work.

(e) Paragraph 1 (e)

815. The *Education Act* provides for the appointment of a Provincial School Attendance Counsellor, who directs the enforcement of compulsory school attendance. The Act provides for inquiries by the Provincial School

Attendance Counsellor into cases of non-attendance. The Act provides for various school officials such as principals, supervisory officers and attendance counsellors to assist in enforcing attendance. The Act provides for the liability of parents in such enforcement. It also provides for court action by attendance counsellors in case of habitual absence. Three alternative secondary education projects have been established to help reduce the dropout rate of Aboriginal students.

2. Aims of education (art. 29)

(a) Paragraph 1 (a)

816. The school curriculum ensures that daily physical and health-related activities are part of the programme from grades 1 to 9.

(b) Paragraph 1 (b)-(d)

817. The Essential Cross-curricular Learning Activities and the outcomes of the Self and Society Programme area identified in the Common Curriculum, Grades 1-9 (February 1993) reflect the spirit of article 29. For example, it is the responsibility of all teachers in all programme areas to demonstrate a commitment to peace, social justice and the protection of the environment, to be able to interact and work effectively with others, to demonstrate respect for human rights and to be motivated to fulfil the responsibilities of citizens in a democratic society.

818. Through the Self and Society Programme, integrating business studies, family studies, geography, guidance, history and physical and health education, it is the responsibility of teachers to ensure that students will be willing and able to resolve conflicts in a cooperative and non-violent manner and to contribute to social change through peaceful, democratic action.

819. With regard to respect for the child's language, since 1977, Ontario has provided for the instruction in languages other than Canada's official languages. Publicly funded schools boards must by law offer instruction in a heritage language when requested by the parents of 25 elementary school-age children. All children regardless of language background are entitled to enrol in any of the 63 Heritage Languages Programme.

820. French-language education, programmes, services and facilities are also in place.

(c) Paragraph (a)

821. A team of French-speaking educators and professionals in support of education is available to French-language schools, particularly in geographically and demographically isolated Franco-Ontarian communities. Their mandate is to provide direct pupil services and professional development for the educators in such schools.

(d) **Paragraph (b)**

822. Using federal funds, Ontario makes available annually French-speaking post-secondary students to assist French-language secondary school teachers in their task of preserving and promoting the French language and culture in the school setting.

(e) **Paragraph (c)**

823. Funds are available to assist French-language schools to organize and participate in French-language cultural activities with a view to preserving and promoting the French language and culture.

3. Leisure, recreation and cultural activities (art. 31)

824. All cultural and recreation agencies and organizations funded by the government are encouraged to offer programmes for children and students; attractions agencies, such as the Art Gallery of Ontario, the Ontario Science Centre and the Royal Ontario Museum, have extensive educational programming, most often on-site. Through the Ontario Arts Council's Arts Education programme, children throughout Ontario benefit from a variety of arts activities in their classroom. As mentioned above, TVOntario, through a range of children's programming, contributes to children's participation on cultural life.

825. The government also directly and indirectly supports the development of parks, playgrounds, facilities and programmes for community members, including children, through policy development and programme funding. Ontario's 81 sports organizations provide athletic opportunities for children and youth.

826. Ontario's public libraries respect and promote the rights of the child to participate fully in cultural and artistic life through materials and programmes that encourage children of all ages to learn about and participate in a wide variety of cultural, artistic, recreational and leisure activities.

I. Special protection measures

1. Refugee children (art. 22)

827. Refugee children receive services under the *Child and Family Services Act*, within integrated programmes according to their special needs, including all services and programmes offered under each of the five categories of children's services: child welfare, child treatment, child development, community support and young offender programme areas.

828. Services must be responsive to the changing needs of children and families. One of the principles of the Act requires that services to children and their families should be provided in a manner that respects cultural, religious and regional differences. Refugee families with children are eligible for social housing.

2. Administration of juvenile justice (art. 40)

829. Criminal offences are dealt with under federal jurisdiction. Provinces have responsibility only for contraventions of provincial laws, which seek to regulate matters that are otherwise lawful. They do not aim to prohibit such conduct altogether or to deal with offences against the social order. Accordingly, the prosecution of provincial offences is governed by procedures that reflect the regulatory nature of these offences.

830. Persons under 16 years of age who commit provincial offences (e.g. trespassing on private property, illegal consumption of alcohol, driving a motor vehicle without a licence) are dealt with under Part VI of the *Provincial Offences Act*. (The vast majority of provincial offences committed by persons over 16 arise from the operation of a motor vehicle. Since children over 16 have the same privileges as adults to operate a motor vehicle, they are also treated as adults for the purposes of motor vehicle offences).

831. The following special provisions of the *Provincial Offences Act* apply to young persons: parents must be given notice of any charge; the identity of the young persons is not to be published; children below the age of 12 may not be convicted of a provincial offence; young persons may not be imprisoned (except where they have wilfully refused to comply with a probation order).

832. The general approach to young persons who commit provincial offences is minimum intrusion by the State, consistent with respect for provincial legislation. Provincial service providers are guided by a philosophy of involving young offenders in programming appropriate to their needs.

833. A planning process is to be implemented for each young offender to ensure full involvement of all appropriate children's services staff, provide adequate assessment of individual needs and determine the programming that is appropriate to those needs.

834. To the extent possible, the family of any young offender should be involved in decision-making, kept in contact with the young persons, given progress reports, and if appropriate, involved in programme support of the young person.

835. The Ontario Provincial Police have procedures for advising young persons of their rights and for taking statements.

3. Children deprived of their liberty (art. 37 (b), (c) and (d))

836. The *Child and Family Services Act* prohibits locking up of children except as authorized under the federal *Young Offenders Act* or under the provisions of the Act for dealing with children who, as a result of a mental disorder, may cause or suffer serious bodily harm. Both of these require a court order. All children receiving service are protected from corporal punishment. A child in care has the right to communicate with his or her family in person or by mail. In addition to the right, under the *Canadian Charter of Rights and Freedoms*, to retain and instruct counsel without delay, all persons, including persons under 18 years of age, may apply for State-paid private legal representation (*Legal Aid Act*).

4. Economic exploitation of children (art. 32)

837. The minimum ages at which young people in Ontario may begin employment are set by regulation under the *Occupational Health and Safety Act*. Although the *Employment Standards Act* and its regulations set minimum standards for hours of work for all employees in Ontario, these provisions do not provide a maximum number of hours for young people based on age or type of employment. Two other statutes, the *Child and Family Services Act* and the *Education Act*, provide legislative or regulatory guidance for the employment of children.

838. Minimum wage rates, as determined by Regulation 285 under the *Employment Standards Act*, apply to youth workers in Ontario. However, a separate, lower minimum wage applies to students under 18 years of age, working during school holidays or not more than 28 hours a week at other times. The student minimum wage is currently $5.90, $0.45 (7 per cent) below the general minimum wage. The minimum wage does not apply to a person employed as a student in certain recreational programmes, instructing or supervising children, at a camp for children or in training for selected professions.

839. Although there is no universal minimum age for working, the regulations under the *Occupational Health and Safety Act* do not permit children below a certain age to work in particular workplaces. The provisions vary somewhat depending on the particular sector, e.g. industry, mining, and construction, and the type of workplace within that sector.

840. The Regulations for Industrial Establishments stipulate that a worker must have reached the minimum age of 14 to work in a workplace other than a factory, 15 to work in a factory and 16 to work in a logging operation. The Regulations for Construction Projects require that no person employ a person younger than 16 years of age at a project. A person aged 15 and who is excused under the *Education Act* from attending school, or is required to attend school only part-time, may be employed as a worker at a project. The Regulations for Mines and Mining Plants require that a person be 16 years to work at a mining plant or a surface of a mine (excluding the working face) and 18 years to work at an underground mine or at the working surface of a mine. No person is allowed to operate a mine hoist unless over 18 years where the hoist does not transport persons, and over 21 years where the hoist does transport persons.

5. Drug abuse (art. 33)

841. Drug education is a mandatory part of the health education programme for Ontario students beginning in Grade 1 (*Education Act*). In addition to receiving basic information about drugs, students are also given appropriate skills to resist being enticed to use drugs, such as decision-making skills and strategies for dealing with peer pressure. Ontario school boards are required, as of September 1991, to have drug education policies in place that deal with the prevention of drug use through education, intervention and counselling, and procedures for dealing with drug-related incidents.

842. A Provincial Substance Abuse Strategy is under development. Within the Strategy, certain vulnerable groups, including homeless youth, will be given priority.

6. Sexual exploitation and sexual abuse (art. 34)

843. Under the *Child and Family Services Act*, a child may be apprehended and may be placed in the care of a children's aid society if the court finds that the child is in need of protection because "the child has been sexually molested or sexually exploited by the person having charge of the child or by another person where the person having charge" knew or should have known. It is an offence under the Act to inflict abuse or permit the child to suffer abuse.

844. The Ontario Provincial Police combats the exploitation of children in pornography through the Anti-Rackets Branch, Pornography Section. This investigative unit, the only one of its kind in Canada, deals exclusively with pornography (photographs, magazines, videotape). In this unit's mandate and priorities, child pornography takes precedence over any other investigation.

7. Sale, trafficking and abduction (art. 35)

845. The *Child and Family Services Act* pronibits payment of any kind in connection with adoption, except prescribed expenses or proper legal fees.

8. Physical and psychological recovery and social reintegration (art. 39)

846. In Ontario, the Ministry of Health gave funds to 20 public hospitals for children's mental health out-patient services. As well, four public hospitals have psychiatric in-patient units for children and adolescents. General and psychiatric hospitals may also provide services to children with mental health problems through emergency departments and family service programmes. The Ministry of Health funds community-based mental health and addictions programmes for adolescents, and also funds approximately 30 programmes for youth. Children and adolescents receive mental health and addictions counselling from psychiatrists and physicians in private practice who bill the Ontario Health Insurance Plan (OHIP) for these services.

847. The *Child and Family Services Act* provides a range of services, including child welfare, child treatment, child development and community support, which promote "the best interests, protection and well-being of children", whether the child's need arises through neglect, exploitation, abuse or otherwise.

9. Children belonging to a minority or an indigenous groups (art. 30)

848. The principles of Ontario's 1985 Corporate Native Affairs Policy Framework are fully in accord with article 30.

849. The Statement of Political Relationship signed by Ontario and First Nations in August 1991, recognizes that the "First Nations represented by the Chiefs-in-Assembly ... exist in Ontario as distinct nations, with their governments, cultures, languages, traditions, customs and territories."

850. The Ministry of Education and Training has adopted a policy for the teaching of Aboriginal languages and cultures in Ontario. The programme enables Aboriginal students to enhance their cultural awareness and improve their use of Aboriginal languages through study, practice and communication.

851. The government is working with Aboriginal communities to establish Native Recreation Councils which would design and deliver culturally appropriate recreation opportunities to Aboriginal children.

VI. QUEBEC

852. The Government of Québec has undertaken to comply with the *Convention on the Rights of the Child*, and therefore to respect and guarantee the rights provided for therein, by adopting Order in Council 1676-91 on 9 December 1991, in conformity with its domestic law. The present report contains information on the situation in Québec related to compliance with the Convention up to 3 December 1992.

A. Measures of general application

853. Since 1975, the *Charter of Human Rights and Freedoms* (R.S.Q., c. C-12) (the *Québec Charter*) has recognized for all without distinction, exception or preference, the fundamental rights, such as the right to life, and fundamental freedoms, such as the freedom of conscience, of religion and of opinion. These rights and freedoms are complemented by political, judicial, economic and social rights. The *Québec Charter* is binding on both the Crown and individuals and concerns those matters that come under Québec's legislative authority under the constitutional law of Canada. The victim of any unlawful interference with any right or freedom recognized by the *Québec Charter* is entitled to obtain the cessation of such interference and compensation for the moral or material prejudice resulting therefrom. In case of unlawful and intentional interference, the tribunal may condemn the guilty party to exemplary damages.

854. In addition, the National Assembly of Québec passed the new *Civil Code of Québec* (C.C.Q.) on 18 December 1991; it is an instrument of general application that governs a variety of questions covered by the *Convention on the Rights of the Child*. The new Civil Code is the fruit of over 35 years of work, consultation and discussion, and constitutes a major reform. In harmony with the *Charter of Human Rights and Freedoms* and the general principles of the law, the Civil Code governs persons, relations among persons and poverty. Its scheduled coming into force on 1 January 1994, in many ways represents a step forward in the protection of the rights of the child. It was considered appropriate to refer to it in the present report because it will form a part of the relevant legislation once it is published.

855. Since 1977, a specific organization, the Comité de protection de la jeunesse, which has since become the Commission de protection des droits de la jeunesse, has been responsible for ensuring respect for the rights of children in difficulty. Such children have specific rights recognized by specific legislation: the *Youth Protection Act* (R.S.Q., c. P-34.1).

856. Finally, in Québec, a Secretariat à la famille has the mandate of coordinating the measures adopted by the various departments to put into effect the plan of action it developed for the 1992-1994 period concerning economic support for families, and relationships, links and relationships of families with schools, leisure and cultural activities, child-care services, and health, social and community services. Thus, the Secretariat has a specific role to play where children are concerned.

857. Finally, in order to meet the particular needs of children, Québec has created two organizations devoted to youth. The Secretariat à la jeunesse is responsible for the planning, coordination and development of youth policy within government structures in order to improve the situation of youth in all sectors. The Conseil permanent de la jeunesse, made up of 15 young people from all regions of Québec, advises the minister responsible for youth, currently the Premier of Québec, on all questions concerning youth, especially in the fields of education, social affairs, employment and entrepreneurship, leisure activities and culture.

B. Definition of the child

858. Article 153 of the C.C.Q. sets the age of majority at 18 years. The Code also contains a series of provisions related to the rights of minors. Thus, a minor 14 years of age or over is deemed to be of full age for all acts pertaining to his employment or to the practice of his craft or profession. He or she may also give consent, alone, to receive care required by his or her state of health. A minor 16 years of age or over may marry with the consent of the person having parental authority; as a result of the marriage, the minor obtains full emancipation and the capacity to exercise civil rights as if he or she were of full age. Full emancipation may also, on the application of the minor, be granted by the court for a serious reason.

859. Generally speaking, a minor is represented in judicial matters by his or her tutor. Nevertheless, according to article 159 of the C.C.Q., he or she may, with the authorization of the court, institute alone an action relating to, among others, status and the exercise of parental authority; he or she may also in such cases act alone as defendant. It should also be noted that where personal rights are concerned it is generally recognized that a child with powers of discernment may retain the services of an advocate.

860. At present, there is no general minimum age limit for admission to employment in Québec. However, Québec legislation does, for health or safety reasons, establish various minimum ages for being allowed to take certain specific kinds of employment or for exercising certain trades or vocations, and for obtaining certain licences (*Act respecting Manpower Vocational Training and Qualification*, R.S.Q., c. F-5). The most frequently adopted minimum age for performing certain jobs is 16 years. This is true of most of the construction trades, of several apprenticeship positions and of jobs requiring a driver's licence. Furthermore, a minimum age of 18 years has been adopted for the exercise of certain trades or vocations involving a higher risk (such as the performance of underground work) or requiring higher levels of theoretical knowledge (forestry engineers, real estate agents or security guards). However, a person aged at least 15 may be an assistant lifeguard, although a lifeguard must be 17. It should also be noted that school attendance is, according to the *Education Act* (R.S.Q., c. I-13.3), compulsory until 16 years of age.

C. General principles

1. Article 2: non-discrimination

861. Québec's *Charter of Human Rights and Freedoms* prohibits discrimination based on grounds of the same nature as those provided for in the Convention.

In addition to preventing discrimination by the State, the *Québec Charter* prohibits individuals from performing any of the discriminatory acts that have the effect of destroying or compromising any of the rights guaranteed therein. The Commission des droits de la personne established by the *Québec Charter* has as its mandate to promote, by every appropriate measure, the principles enunciated in the *Québec Charter*. Thus, the Commission may make an investigation, on its own initiative or following receipt of a complaint, into any situation which appears to it to constitute discrimination. Since 1989, a Human Rights Tribunal has the power to hear any application by the Commission or by an individual in respect of discrimination.

862. In addition, article 522 of the C.C.Q. provides that all children whose filiation is established have the same rights and obligations, regardless of their circumstances of birth. A child is entitled to inherit from his parents no matter what the situation. A child adopted from a foreign country has all the rights of a child born in Québec.

2. Article 3: the best interests of the child

863. Article 33 of the C.C.Q. provides that decisions concerning a child are to be taken in light of the child's interests and the respect of his rights. This principle is repeated in several other articles of the C.C.Q. related to the family (separation from bed and board, obligation of support, adoption, consent for care, etc.), and in a number of statutes, including the *Act respecting Labour Standards* (R.S.Q., c. N-1.1) and the *Youth Protection Act*. According to the *Youth Protection Act*, a child has the right to be consulted if he or she is capable of understanding, and the right to be represented by an advocate if the tribunal establishes that the interests of the child are opposed to those of his parents. It should therefore be noted that, in addition to the child's interests, which are referred to in the Convention, the respect of the child's rights must be taken into consideration under Québec law.

864. In the areas of safety and health, the Government supervises institutions and establishments responsible for children by means of the *Act respecting Health Services and Social Services* (R.S.Q., c. S-4.2) and the regulations made pursuant thereto. The regulations determine, among other things, the framework of intervention by such institutions and establishments and set standards of quality for the services that are to be maintained there. Finally, there are control organizations that supervise these institutions and establishments: these are the Complaints Commissioner appointed under the *Act respecting Health Services and Social Services*, the Public Protector, and the Commission de protection des droits de la jeunesse.

3. Article 6: right to life, survival and development

865. Article 3 of the C.C.Q. provides that every person is the holder of personality rights, which include the right to life and to the inviolability and integrity of his or her person.

866. Section 1 of the *Québec Charter* recognizes that every human being has the right to life, and to personal security, inviolability and freedom. Section 2 establishes that every person whose life is in peril has a right to assistance. The same section states that it is a duty for every person to

come to the aid of anyone whose life is in peril, either personally or calling for aid, by giving him the necessary and immediate physical assistance, unless it involves danger to himself or another person.

867. On economic and social rights, section 39 of the *Québec Charter* specifically recognizes the right of every child to the protection, security and attention that parents or the persons acting in their stead are capable of providing. This protection is supplemented by section 45, which establishes the right of all persons in need, for themselves and their families, to measures of financial assistance and to social measures provided for by law that can ensure an acceptable standard of living (family allowances, income security). It is still a constant challenge for every society to attain a standard of living that will enable everyone, and children in particular, to benefit fully from the right to development.

868. Finally, the *Act respecting Labour Standards* permits employees to obtain, in addition to maternity leave, leave for family events.

4. Article 12: respect for the opinions of children

869. Several articles of the C.C.Q. provide that the opinions of children must be respected in matters that concern them directly. This is true, for example, in respect of consent for health care and of a change in name. Similarly, article 34 of the C.C.Q. provides that, in every application before it affecting the interest of a child, the court must give the child an opportunity to be heard if his age and power of discernment permit. The same is true of section 6 of the *Youth Protection Act*, which provides that any person who had decisions to take respecting a child in difficulty must give the child in question an opportunity to be heard. In addition, section 80 of the said Act provides that, where the tribunal establishes that the interests of the child are opposed to those of the parents, it must see that an advocate is specifically assigned to the defence of the child and must ensure that the advocate in question is not acting, at the same time, as counsel or attorney for the parents.

D. Civil rights and freedoms

1. Article 7: name and nationality

870. Article 5 of the C.C.Q. recognizes every person's right to a name.

871. In addition, article 582 of the C.C.Q. provides that the judicial and administrative files concerning the adoption of a child are confidential. The purpose of the confidentiality of such files is to protect the privacy of both the child and the parents. Nevertheless, article 583 of the C.C.Q. provides that an adopted person of full age or an adopted minor 14 years of age or over is entitled to obtain the information enabling him or her to find the biological parents if they have consented thereto.

2. Article 13: freedom of expression

872. The right of a child to freedom of expression by a medium of his or her own choice is clearly protected by section 3 of the *Québec Charter*. The *Québec Charter* also establishes in section 9.1 that, in exercising fundamental

freedoms and rights, a person must maintain a proper regard for democratic values, public order and the general well-being of citizens.

3. Article 17: access to information

873. The right to information is granted specific protection in section 44 of the *Québec Charter*, although the courts often treat it as incidental to the right to freedom of expression.

874. The Department of Education and the Société de radio et de télévision du Québec (Radio-Québec) cooperate in productions intended for children of primary, secondary and pre-school age. This cooperation includes financial support and coordination of the content of educational programming. This helps ensure that the values promoted by the Department within the framework of its educational services and study programmes are reflected in the productions of Radio-Québec. These values correspond to those affirmed in article 29 of the Convention.

875. In addition, a committee made up of representatives of the Department and of Radio-Québec ensures that educational productions acquired from elsewhere, for distribution in schools, promote values consistent with those of article 29 of the Convention.

876. An agreement between France (Centre national de documentation pédagogique) and Québec (Radio-Québec) allows children access to audio-visual materials produced abroad.

877. Finally, the Department of Education subsidizes Québec publishers who produce textbooks intended for primary and secondary schools. Before being authorized for use in schools, these textbooks are examined against qualitative criteria, among which is consistency with guidelines and values prescribed in official programmes of study.

4. Article 14: freedom of thought, conscience and religion

878. In Québec, the freedoms of though, conscience and religion are protected by section 3 of the *Québec Charter*. These fundamental freedoms include the right to adopt and express the religion or beliefs of one's choice.

879. Section 41 of the *Québec Charter* recognizes the rights of children to receive a religious or moral education consistent with the convictions of their parents or of the persons acting in their stead. The *Education Act* also promotes the exercise of this right.

5. Article 15: freedom of association and of peaceful assembly

880. The protection of these rights is provided for in section 3 of the *Québec Charter*.

6. Article 16: protection of privacy

881. Articles 3 and 35 of the C.C.Q. grant every person the right to have his or her reputation and privacy respected.

882. Several provisions of the *Québec Charter* concern various aspects of a child's private life, which is given general protection by section 5. First, section 4 provides that every person has a right to the safeguard of his or her dignity, honour and reputation. Sections 7 and 8 establish that a person's home is inviolable and that no one may enter upon the property of another or take anything therefrom without his or her consent. Finally, section 24.1 provides that no one may be subjected to unreasonable search or seizure.

883. Furthermore, section 9 recognizes the right to professional secrecy. Section 9.1 adds that no person bound to professional secrecy may, even in judicial proceedings, disclose confidential information unless authorized to do so by the person who confided such information or by an express provision of law. The *Youth Protection Act* establishes a system of exceptions in this respect in favour of children who are victims of sexual abuse or subject to physical ill-treatment. This system is explained in greater detail on the subject of article 19 of the Convention, which is discussed under the next heading.

884. The *Act respecting Access to Documents held by Public Bodies and the Protection of Personal Information* (L.R.Q., c. A-2.1) protects privacy by prescribing that information that pertains to a physical person, and permits the identification of that person, must remain confidential except in certain specific cases: information concerning minors may be divulged if such disclosure is authorized by the minor involved or by the person having parental authority. Under the Act, a "public body" includes educational, health and social service institutions. The Act also regulates the collection, the conservation and the use of such personal information. Furthermore, every person has the right under the Act to request and receive, subject to certain restrictions, copies of all documents which are held by an institution and which concern that person, and the right to correct any such document if it is inaccurate, incomplete or ambiguous.

885. Since 1993, the *Act respecting the Protection of Personal Information in the Private Sector* (L.Q. 1993, c. 17) prescribes that private businesses are also obligated to ensure the confidentiality of any personal information that they may hold or use. The Act regulates the collection, communication and use of any information which concerns an identifiable physical person. The Act also sets conditions and mechanisms by which persons may obtain and rectify any files concerning them.

886. Where the protection of privacy is concerned, both the *Youth Protection Act* and the *Act respecting Health Services and Social Services* contain specific provisions on access to, and the retention and destruction of, information contained in a child's record. In addition, a child aged 14 or over enjoys independence in respect of access to and the disclosure of information about him- or herself.

7. Article 37 (a): the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

887. Section 25 of the *Québec Charter* provides that every person arrested or detained must be treated with humanity and with the respect due to the human person.

E. Family environment and protection from removal

1. Article 5: parental direction

888. Article 394 of the C.C.Q. provides that the spouses are jointly responsible for the moral and material leadership of the family. This principle is also set out in section 47 of the *Québec Charter*.

2. Article 18 (1) and (2): responsibility of parents

889. Article 600 of the C.C.Q. provides that the father and mother exercise parental authority together, and article 599 adds that they have the rights and duties of custody, supervision and education of their children.

890. The *Act respecting Labour Standards* provides for the granting of parental leave without pay for a period of up to 34 weeks to make it easier to reconcile work with family needs. The right to parental leave to take care of a newborn or newly adopted child is available to both parents.

891. It should be added that, even though the Government of Québec has taken measures to improve protection for the rights and income of pregnant employees and for those of parents at the time of a child's birth or adoption, there is still much ongoing discussion concerning improving financial support for families during maternity leave and parental leave.

892. The *Youth Protection Act* also contains provisions establishing that it is the parents who are primarily responsible for providing a child with care, maintenance and education and for exercising supervision over him.

3. Article 9: separation from parents

893. Situations in which a child must be separated from his parents must be analysed on the basis of the principles of article 3 of the Convention, which has already been discussed. For the various circumstances in which this might occur, see the discussions of articles 19, 20, 25 and 39 under the present heading and of articles 37 and 49 under the heading "Special measures of protection for the child".

4. Article 10: family reunification

894. Section 3 (b) of the *Act respecting the Department of Cultural Communities and Immigration* (R.S.Q., c. M-23.1) provides that the selection of foreign nationals wishing to settle permanently or temporarily in Québec is intended, in particular, to facilitate the reuniting of Canadian citizens and permanent residents with their close relatives from abroad.

895. Thus, the Regulation respecting the selection of foreign nationals (R.R.Q., c. M-23.1, r. 2) permits a Québec resident to give an undertaking to sponsor an unmarried minor child over whom he or she has and exercises parental authority, without having to prove that he or she has the financial capacity to do so (sects. 19, 23, 24 and 26). Such undertaking will enable the child to be selected by Québec for admission by Canada as a permanent resident.

5. Article 27 (4): recovery of child maintenance

896. Québec's *Code of Civil Procedure* (R.S.Q., c. C-25) establishes a procedure to permit a collector of support payments to seize the support debtor's property for the purpose of recovering any payments of support not paid when due. The collector of support payments acts as seizing agent for the person designated as the creditor in the judgement. The collector may also enter any proceeding aimed at favouring the execution of the judgement.

897. The *Code of Civil Procedure* provisions are complemented by those of the *Act respecting Reciprocal Enforcement of Maintenance Orders* (R.S.Q., c. E-19) that authorize the execution in Québec of a judgement ordering payment of maintenance rendered in a state, province or territory designated pursuant to the Act. All the Canadian provinces, both territories, and the state of New York have been so designated, and an agreement has also been entered into with the state of New York to facilitate the recovery of support payments.

6. Article 20: children deprived of their family environment

898. Section 4 of the *Youth Protection Act* provides that the goal of every decision made under the Act must be to have the child remain with his or her family. Should remaining with the family be impossible, the same Act provides that any decision concerning children must contemplate providing them with continuous care and stable conditions of life corresponding to the children's needs and age and as nearly similar to those of a normal family environment as possible.

7. Article 21: adoption

899. According to article 543 of the C.C.Q., no adoption may take place except in the interest of the child and on the conditions prescribed by law.

900. Section 72.1 of the *Youth Protection Act* provides that the Director of Youth Protection (DYP) must, if he considers adoption to be the measure most likely to ensure the respect of the child's rights, take all reasonable means to facilitate it.

901. On international adoption, articles 581 and 3092 of the C.C.Q. provide that a judgement of adoption rendered outside Québec produces the same effects as if it had been rendered in Québec. Thus, the child benefits from standards equivalent to those that apply to a case of domestic adoption. The *Youth Protection Act* aims in such cases to ensure that the adoption takes place in light of the child's interests and the respect of his rights. For that purpose, a psychosocial assessment of persons wishing to adopt is required, and certain provisions concern the certification of the organizations that take the steps with a view to adoption on behalf of the adopters. Finally, a child adopted outside Québec has all the rights of a child born in Québec.

902. It should also be mentioned that, pursuant to section 19 (f) of the Regulation respecting the selection of foreign nationals, an unmarried minor whom a Québec resident intends to adopt and may adopt under the laws of Québec is included in the family class. According to that classification, a child will be selected by Québec for admission by Canada as a permanent resident if the adopter gives an undertaking to provide for the child's basic needs until

his majority or for 10 years, whichever is longest, if he proves that he is capable of making such an undertaking and if the Minister of Health and Social Services does not oppose the adoption.

8. Article 11: illicit transfer and non-return

903. Since 1 January 1985, the *Act respecting the Civil Aspects of International and Interprovincial Child Abduction* (R.S.Q., c. A-23.01) has guaranteed the application in Québec of the principles and rules set forth in *the Hague Convention on the Civil Aspects of International Child Abduction;* Québec declared itself to be bound by that Convention in Order in Council 1406-84 of 13 June 1984.

9. Article 19: abuse and neglect

904. According to section 39 of the *Youth Protection Act*, every person, even one bound by professional secrecy (with the exception of an advocate), is required to bring the situation of any child who is a victim of sexual abuse or who is subject to physical ill-treatment to the attention of the Director of Youth Protection (DYP). A police officer will often be required to bring such information to the attention of the DYP due to his functions. This express provision constitutes an exception to section 9.1 of the *Québec Charter*, as mentioned on the subject of article 16 under the heading "Freedoms and civil rights".

905. The Director may provisionally remove the child from his or her present environment and entrust him or her to a person or to an appropriate body where the information is reliable and intervention is urgent. If it is necessary for such removal to be longer than 24 hours, the DYP must apply to the court for an extension.

906. Where the DYP is able to reach agreement with the parents and the child (if the child is 14 years of age or older) on measures capable of ensuring the child's security and development, voluntary measures may be ordered. If no agreement is possible, or if judicialization of the case is appropriate, the DYP then refers it to the court. If at the end of the trial the judge concludes that the child's security or development is in danger, the judge may impose a range of measures extending from assistance and support for the child and for his parents to placement of the child. The sole purpose of this judicial procedure is to protect the child. Separate criminal proceedings must be instituted against the persons responsible for this abuse.

907. For the purpose of better identifying those cases that need to be heard by the Court of Québec, Youth Division, and those in which criminal prosecutions need to be instituted, agreements have been entered into between the DYP, the Ministère de la Sécurité publique and the police forces. In short, some cases may be settled on the basis of an agreement, while others may require a youth protection hearing before the Youth Division or a prosecution instituted before a court of criminal jurisdiction.

908. The *Youth Protection Act* provides that the DYP may also intervene in situations where children have been abandoned or neglected. In such cases, the protective measures described above may be adopted.

909. Much effort has been expended to combat the thorny problem of family violence. The Ministère de la Santé et des Services sociaux has issued departmental directives for the consolidation of its actions. They will make it possible to integrate the system's many interventions concerning violence and the prevention of violence, and in particular those with violent spouses. Specific actions have also been taken to intervene effectively in Aboriginal communities. An Aboriginal organization, the Institut de formation autochtone du Québec, has carried out an assessment of family violence programmes. Finally, the Conseil québécois de recherche sociale has made the theme of family violence one of its priorities.

910. It should also be mentioned that agreements have been reached to combat certain abusive situations. For example, an interdepartmental agreement on sexual abuse in schools was approved in January 1992. Drafted by a working group created in 1990-1991 by the President of the Commission de protection des droits de la jeunesse, which consisted of representatives from the school systems and from ministries of education, of health and social services, of justice and of public security, this agreement establishes the bases of a joint action by the school board, the DYP, the police force and the Attorney-General's prosecutor. Its purpose is to protect children who are the victims of such abuse and to identify the perpetrators.

10. Article 39: physical and psychological recovery and social reintegration

911. In respect of physical or psychological recovery, a child is entitled to receive adequate health services and social services on all scientific, human and social levels, continuously and according to his personal requirements, account being taken of the Organization and resources of the establishments providing such services (sect. 8, *Youth Protection Act*). Along these lines, the Act provides for a number of measures, either voluntary or ordered by the court, the purpose of which is to provide health services and social services to the child and the parents. These various measures are established by, among others, the *Act Respecting Health Services and Social Services*.

11. Article 25: periodic review of placement

912. Every child who has been placed is entitled to a periodic review of his or her placement. The *Act Respecting Health Services and Social Services* provides that all users of health and social services are entitled to participate in the development of their intervention plan or service plan if they are included in a class determined by regulation (sect. 10). Every child who has been placed is included in such a class. The plans in question provide, among other things, for an identification of the person's needs and the objectives pursued, and include a schedule for evaluating and reviewing the plans (sect. 102 and 103).

913. In addition, section 57 of the *Youth Protection Act* provides for a review of the case of every child whose situation has been taken in charge pursuant to the said Act. This review is conducted in the circumstances and in accordance with the time periods provided for in the Regulation respecting the Review of the Situation of a Child (O.C. 2199-85 of 23 October 1985). Its purpose is to verify on a periodic basis that every measure designed to ensure

the child's return to his or her parents is taken, if such a return is in the child's interest, or ensure that the child has living conditions appropriate to his or her needs and age.

F. Health and welfare

1. Article 23: disabled children

914. The *Québec Charter* specifically states that a person's disability, or any means used by a person to compensate for a disability, are prohibited grounds of discrimination under the heading of rights to equal treatment.

915. The *Québec Charter* guarantees the equal right of every person to a free public education as provided for by law. To this end, the *Education Act* ensures free educational services to every person with disabilities, from 5 to 21 years of age. Those services must be adapted to the specific needs of the persons in question and must promote their learning and their integration into society. Persons with disabilities are also entitled to special education programmes, adapted to their needs, of which the aim is to permit the fullest possible integration into society and the educational system.

916. In June 1978, Québec established an Office des personnes handicapées, one of whose functions is, in respect of children, to carry out research and studies on school integration; it may for that purpose conclude agreements with any agency or establishment.

917. Finally, it should be noted that the budget for grants for the integration of children with disabilities has increased significantly over the last few years. The purpose of the grants is to facilitate access to child-care services and meet the additional expenses needed for their integration.

2. Article 24: health and medical services

918. In health and welfare matters, the *Act Respecting Health Services and Social Services* states the basic aims of the health services and social services plan together with the rights of users with respect to those services.

919. The said Act determines the health services and social services provided in local community service centres, hospitals, child and youth protection centres, residential and long-term care centres and rehabilitation centres.

920. The mission of child and youth protection centres is aimed exclusively at children and their families. As for rehabilitation centres, they are intended for several types of client, but some of them are specialized in the rehabilitation of young persons with adjustment problems.

921. The said Act also deals with the organization of health and social service institutions, and it specifies their roles and duties with a view to ensuring the provision of health services and social services to any person, including children.

922. The *Hospital Insurance Act* (R.S.Q., c. A-28) establishes free lodging and diagnostic hospital services, together with treatment provided by hospital staff, for as long as they are medically necessary. The *Health Insurance Act* (R.S.Q., c. A-29) adds to the medical services covered by hospital insurance by extending the principle of free services to any services rendered by physicians that are medically necessary.

923. The Policy on Health and Welfare of the Department of Health and Social Services has as a priority objective to ensure that pregnant women have all appropriate information and pre-natal care of a high quality in order to reduce the risk of premature births and congenital anomalies.

924. Finally, the Regulation Respecting Income Security (R.R.Q., c S-3.1.1, r. 2) provides a special, continuous allowance to pregnant and nursing women to promote better nutrition among this category of beneficiaries.

3. Articles 26 and 18 (3): social security and child-care services and facilities

925. The *Act Respecting Income Security* (R.S.Q., C. section 3.1.1) establishes financial assistance of last resort for persons whose resources are insufficient to provide for the needs of their families. The financial assistance corresponds to the minimum to which each person is entitled in society for the purpose of providing for basic needs and, where applicable, any special needs. Two programmes have been set up to attain this objective.

926. The financial support programme is intended in particular for families whose resources are insufficient and in which one of the parents is unable, for a major reason (impairment, physical or mental illness, either permanent or for an extended period), to hold employment. The person's state of health must be established by a medical report. Once a family has been admitted to the programme, it obtains last-resort assistance covering all of its basic needs, together with special benefits to meet other recognized needs.

927. The work and employment incentives programme is intended in particular for families whose resources are insufficient and the adult members of which are fit to hold employment. It provides them with three ways to enter or re-enter the labour market: last resort financial assistance covering the recognized basic needs (with special benefits); employment assistance in the form of salary grants offered to employers who hire them; and a package of training measures for their entry into the labour market. The amount of financial assistance granted varies according to their readiness for work and to their participation in the measures and other means they are offered by the programme.

928. A portion of the last-resort assistance benefit is intended to satisfy the basic needs of underprivileged children. The amounts granted by the financial support and work and employment incentives programmes are added to the financial assistance paid to meet basic needs. They must be considered in combination with other universal measures, such as Quebec's family assistance allowance.

929. With regard to child day-care, the Plan'action en matière de politique familiale [family policy action plan] groups together a series

of 12 government undertakings for which the Office des services de garde à l'enfance is responsible. Thus, 6,208 new day-care spaces were allotted in 1991/92, of which some 30 per cent were in day-care centres, 20 per cent were in the home and 50 per cent were at school.

930. During the 1991/92 fiscal year, the Office des services de garde à l'enfance reserved $1,000,000 for support for disadvantaged families, including basic financial assistance and the supplement.

931. The grant awarded for the establishment of a new non-profit day-care centre that is the owner of its premises rose from $90,000 per day-care centre in 1988/89 to $136,000 in 1990/91, and the Office des services de garderie awarded $2,004,012 for the establishment of new non-profit day-care services.

932. Finally, the *Taxation Act* of Québec permits parents working outside the home to deduct from their taxable revenue a large part of their expenses for day care for their children. To this deduction is added a tax credit to any person supporting a child or children. The purpose of these measures is to reduce the tax burden of parents.

4. Article 27 (1), (2) and (3): standard of living

933. Chapter IV of Part I of the Québec *Charter of Human Rights and Freedoms*, which concerns economic and social rights, explicitly guarantees the right to an acceptable standard of living. Section 45 of the *Québec Charter* provides that all persons in need have a right, for themselves and their families, to measures of financial assistance and to social measures provided for by law that can provide such persons with an acceptable standard of living.

934. The mission of the Ministère de la Main-d'oeuvre, de la Sécurité du revenu et de la Formation professionnelle is to ensure every person and family the financial security they need to lead an acceptable life with dignity.

935. Thus, the *Act Respecting Income Security* establishes various assistance programmes aimed at preventing certain persons from finding themselves in a situation that could endanger their health or safety or lead to complete destitution.

936. The Plan d'action en matière de politique familiale makes significant economic support available to families. From 1989 to 1992, the allowance for third and subsequent newborn children rank rose from $4,500 to $8,000. In addition, all of the financial support programmes for children have been indexed.

937. Furthermore, one of the major concerns of the Secrétariat à la famille is to ensure that parents and the population are familiar with all the assistance to which families are entitled. Thus, it produces an annual information pamphlet on the various government programmes for parents and children.

G. Education, leisure and cultural activities

1. Article 28 (1) (a), (b) and (c): education, including vocational training and guidance

938. According to section 40 of the *Québec Charter*, every person has a right, to the extent and according to the standards provided for by law, to free public education. However, parents may also choose to send their children to private educational establishments recognized by the State (section 42).

939. According to the *Education Act*, school attendance is compulsory from 6 to 16 years of age, that is, for the entire duration of primary and secondary instruction. Section 3 of the same Act provides that educational services are to be provided free to residents of Québec until they attain 18 years of age.

940. Furthermore, where access to higher education is concerned, the mission of the Ministère de l'Enseignement supérieur et de la Science is to give access to higher learning and culture to any person who wishes it and has the necessary ability.

941. The primary means of making higher education accessible is providing regular full-time college education free of charge, through a network of establishments spread throughout the territory of Québec. In addition, the Québec Government's financial assistance system offers loans and bursaries to students whose financial resources are insufficient to pursue a post-secondary education. Additional assistance is also awarded to students from regions considered isolated. Several measures have also been taken to promote access to a post-secondary education for target groups, including women in non-traditional careers, Aboriginal peoples, persons with disabilities and those from ethnic communities.

942. Universities charge tuition fees; however, those fees are taken into account in determining the amount of financial assistance a student is to be awarded.

943. Several changes have been made to the system in order to adapt the financial assistance system for students to today's social and family realities and, in so doing, to promote the accessibility of post-secondary studies. The effects of these adjustments have been to reduce the contributions of parents with children who are studying, reduce the share required from a spouse, and increase assistance for students with dependants.

2. Article 28 (1) (d)

944. Throughout their secondary studies, students receive a career choice education course, which is a compulsory part of their curriculum. They are also, pursuant to section 1 of the *Education Act*, entitled to educational and vocational guidance services.

3. Article 28 (1) (e)

945. The obligation to attend school until 16 years of age is supported by a variety of statutory provisions. Thus, section 17 of the *Education Act* imposes on parents the obligation to take the necessary measures to ensure

that their child attends school as required, and section 18 imposes on the school principal, among others, the obligation to ascertain that students attend school regularly.

946. Even with this legal framework, the phenomenon of school abandonment, or "dropping out", persists and is giving rise to a broad reflection aimed at combating it and limiting its effects.

4. Article 29: the purposes of education

947. Pre-school, primary and secondary instruction pursue the same purposes as those set out in article 29 of the Convention. Such instruction promotes the child's general development and his integration into society, together with the development of his abilities in disciplines that will prepare him for post-secondary studies.

948. It should be mentioned in relation to education that the Secrétariat à la famille has developed two action plans on family policy, the first for the 1989-1991 period and the second for the 1992-1994 period.

949. One of the objectives of the Plan d'action en matière de politique familiale, which is entitled "Famille en tête" [the family first], is better to inform parents as to their place in the administration of the school system under the *Education Act*. This objective has led the Ministère de l'Education to produce and make available to schools an educational guide for parents who are members of school committees, orientation committees or parents' committees.

5. Article 31: leisure, cultural activities

950. The Plan d'action en matière de politique familiale of the Secrétariat à la famille is an attempt to facilitate the family's physical and financial access to cultural, tourist and leisure activities. Thus, it includes programmes to promote park projects intended for families, a guide on family leisure in municipalities, and cultural activities (museums, libraries, etc.) that are free for children or have family rates.

H. Special measures of protection for the child

1. Article 22: refugee children

951. Legislation in force in Québec distinguishes between those claiming refugee status and those who have been granted refugee status and permanent residence by the federal government. Those who have been granted permanent residence are entitled, under the same conditions applicable to any Canadian citizen residing in Québec, to education and health services and to the various social protection measures available in Québec. They may benefit from a programme which assists them in their settlement (Règlement sur l'octroi de prêts à des immigrants en situation particulière de détresse (R.R.Q., c.M-23.1, r.1.1)). In addition, when they receive language instruction furnished by the Government of Quebec in order to facilitate their integration, they may benefit from a stipend for participation and from a

child-care allowance under the terms of sections 17 and 21 of the Regulation Respecting Linguistic Integration Services and Financial Assistance (R.R.Q., c.M-23.1, r.3.1).

952. Those claiming refugee status may benefit, under certain conditions, from the Québec Government's medical and hospitalization insurance programmes. In the field of education, they are entitled to the same services as those offered to Québec residents with the exception of government student loans and bursaries. At the post-secondary and university level, claimants may be required to pay higher tuition fees. Finally, claimants are eligible to benefit from assistance programmes of last resort under the terms of the *Act Respecting Income Security*.

2. Article 40: administration of justice for minors

953. In Québec, the minimum age for criminal responsibility is 14, except as regards federal offences, for which the minimum age set in the *Young Offenders Act* is 12.

954. While recognizing the specific needs of adolescents with respect to counselling and re-education, the *Young Offenders Act* none the less confirms the need for these young people to take responsibility for their wrongdoings and to understand the legitimacy of steps taken by society to protect itself against unlawful conduct. Québec's application of this law makes use of joint interventions by the psycho-social and judicial systems, closely combining the objectives of both the re-education process and the penal system. Québec has set up a programme allowing young persons to benefit from alternative measures to judicialization. These alternative measures vary according to the nature of the wrongdoing and its consequences, the personality of the adolescent and the circumstances of each particular case. Consequently, about 50 per cent of complaints received do not go to court.

955. If the judicial solution appears called for, young offenders benefit from the rights and guarantees listed in section 40 of the Convention by virtue of the *Code of Penal Procedure of Québec* (L.R.Q., c. C-25.1), the Québec *Charter of Human Rights and Freedoms*, and the *Young Offenders Act*.

956. Québec has put into effect a number of programmes and services designed to meet the particular needs of children involved in lawbreaking. Their parents are informed and they may rapidly retain the services of an attorney whose services are in the vast majority of cases partially paid for by both levels of government.

957. The *Young Offenders Act* allows for a range of penalties that are less severe than those imposed by the *Criminal Code* on adults who are convicted. Thus, the severest penalty applicable to adolescents is detention, which may be for a maximum of three years (except in cases of adolescents guilty of murder, in which event the maximum is five years), and which is served in re-education institutions devoted exclusively to youth.

958. Finally, it should be noted that Québec has established a specialized tribunal for young persons that deal exclusively with matters involving children: the Youth Division of the Court of Québec.

3. Article 37: treatment of children deprived of liberty, including children subject to any form of detention, imprisonment or placement in a supervised establishment (paras. (*b*), (*c*) and (*d*))

959. In general, section 23 of the *Québec Charter* entrenches the right of every accused person to a public trial before an independent and impartial court. Section 24 guarantees to every person the right not be deprived of liberty except for reasons prescribed by law and in a manner in accordance with prescribed procedure.

960. In Québec, unless a judge has ruled otherwise, young persons between the ages of 12 and 17 who are arrested by the police may not be detained in a police station or in a house of detention for adults. Where a young person arrested without a warrant should, for reasons set out in a law, be detained before a court appearance, the director of youth protection must authorize temporary detention in a youth protection centre. When arrested, the young person must be informed of the reasons for the arrest, and of his or her right to consult an advocate immediately.

I. Children in a situation of exploitation, including their physical and psychological recovery and social reintegration

1. Article 32: economic exploitation, including child labour

961. According to section 38 (*f*) of the *Youth Protection Act*, where a child is forced or induced to beg or to do work unsuited to his or her age, the case may be brought to the attention of the director of youth protection, who must apply, or have the court apply, any adequate measure to put an end to such abuse. In addition, section 135 (*a*) of the same Act makes it an offence for any person who performs an act that may endanger the security or development of a child.

962. As is well known, increasing numbers of students at the university or college levels are working. A rise in the activity of secondary-school students on the labour market has been observed for several years. This trend is presently receiving special attention, as it could eventually affect children under 16, thus endangering their chances of obtaining a High School Leaving Certificate and moving on to higher education. However, it should be noted that in Québec school attendance is, according to the *Education Act*, compulsory between the ages of 6 and 16.

2. Article 36: other forms of exploitation

963. Both through the existing legislation, including the *Youth Protection Act*, and the programmes and services that have been implemented, children resident in Québec are protected from the various forms of exploitation that could be prejudicial to their welfare.

3. Article 35: sale of, traffic in and abduction of children

964. The *Youth Protection Act* defines certain offences related to adoption. These penal provisions could be used to punish certain activities related to

the sale and abduction of, and traffic in, children (sections 135.1, 135.1.1, 135.1.2, 135.1.3 and 135.2); furthermore, such activities are prohibited by the *Criminal Code* of Canada.

J. Children belonging to a minority or to an indigenous group

Article 30

965. Article 43 of the *Québec Charter* guarantees that all persons belonging to an ethnic minority have the right to the preservation and advancement of their own cultural life with other members of their group.

966. The Government of Québec adopted 15 principles in 1983 to clarify the framework of its relations with the Aboriginal peoples living on its territory. Some of those principles lie within the ambit of article 30:

(a) Québec recognizes that the Aboriginal peoples of Quebec are distinct nations that are entitled both to enjoy their own cultures, languages, customs and traditions and to direct the development of this distinctive identity themselves;

(b) The Aboriginal nations may, on territories agreed upon, or upon which they will agree, with the Government, exercise rights to hunt, fish trap, gather fruit, harvest wildlife and barter among themselves;

(c) The Aboriginal nations are entitled, under agreements with the Government, to have and control institutions that correspond to their needs in the fields of culture, education, language, health, social services and economic development.

967. The Government of Québec intervenes actively in matter of Aboriginal language and culture. It grants subsidies to Aboriginal organizations to promote the cultural development of Aboriginal communities: for example, a subsidy is given annually to the Association of Native Women of Québec, for whom the family milieu is a high priority; another subsidy is given to the Inuit to construct cultural centres in each of their 14 villages in Québec. As to media, the Government has for many years financially assisted the development of Aboriginal community radio broadcasting in Aboriginal languages. A dozen periodicals in Aboriginal languages are published in Québec. Interventions are made to support the preservation, expansion and recognition of Aboriginal languages. Finally, a programme of guaranteed income for Cree and Inuit hunters and fishermen has been established.

968. Quebec has a number of Aboriginal cultural institutions such as the Avataq Cultural Institute for the Inuit and the Montagnais Cultural and Educational Institute.

969. In the field of education, certain college-level teaching institutions have created programmes and orientation structures adapted to the needs of Aboriginals. Under the James Bay and Northern Québec Agreement, Aboriginal school boards have been created by the Cree and Inuit. They are responsible for primary and secondary education and adult education, and can sign agreements on college and university teaching.

VII. PRINCE EDWARD ISLAND

A. General measures of implementation

970. Prior to the ratification by Canada of the Convention, there were a number of steps taken to promote the Convention. In December 1990, an all-day workshop was held featuring Nicholas Bala, Professor of Law at Queen's University. The workshop was hosted by the Community Legal Information Association of Prince Edward Island and was aimed at persons who work with children and youth.

971. The *Convention on the Rights of the Child* was further promoted by an information kit which was distributed to non-governmental organizations and educational establishments across the province by the Prince Edward Island Association of Rights and Freedoms. This information kit was made possible through funding received from the federal government.

B. Definition of the child

972. The *Age of Majority Act*, R.S.P.E.I. 1988, Cap. A-8, establishes the age of majority at 18 years.

973. Compulsory education ends at age 16. However, free school privileges, including transportation, are provided to all students up to the age of 21 if they have not graduated from high school.

974. The *Marriage Act* of Prince Edward Island provides in section 17 that individuals under the age of 16 years cannot be married. An exception may be made in the case of a female who is either pregnant or the mother of a living child. Any individual under the age of 18 requires the consent of a parent or guardian or the order of a judge of the Supreme Court of Prince Edward Island.

975. The minimum age for the consumption of alcohol in the province of Prince Edward Island is 19 years of age (*Liquor Control Act*, section 40).

976. The *Youth Employment Act* (proclaimed in 1990) prohibits the employment of persons under the age of 16 years in any employment that is likely to be "harmful to the health or safety or moral physical development of a young person". This Act further limits the hours that can be worked by a young person in any employment, avoiding hours between 11.00 p.m. and 7.00 a.m. and normal school hours. There are further limits to the numbers of hours which can be worked on a school day.

977. Exceptions can be made to these limitations on hours worked, but only under very strict conditions and with the consent of a parent. Employers are required to take further steps when they employ someone under the age of 16 to ensure that the young person is safe. The minimum age of 16 years applies to both part-time and full-time employment.

C. General principles

978. The P.E.I. *Human Rights Act*, R.S.P.E.I. 1988, Cap. H-12, prohibits discrimination on the basis of age, race, colour, sex, religion, creed, marital status, political belief, national or ethnic origin, physical or

mental disability. This applies to accommodations, services and facilities and employment. The Act is not limited to any age group and applies equally to children.

979. The *Custody Jurisdiction and Enforcement Act* of Prince Edward Island deals with custody of children and specifies that one of the purposes of that Act is "to ensure that applications to the court in respect of custody of, incidents of custody of and access to children, will be determined on the basis of the best interests of the children; ...".

980. The same Act further encourages a person entitled to custody to exercise the responsibilities of a parent "in the best interests of the child" (section 3 (2)).

981. The *Family and Child Services Act* follows a similar principle when it states in section 2: "In the administration and interpretation of this Act the best interests of the child shall be the paramount consideration".

982. This Act deals with the protection by the province of the children in need of such protection by reason of family support.

983. The *Family and Child Services Act* also defines a "child in need of protection" in a detailed list in section 1 (2). The characteristics of a "child in need of protection" directly reflect article 6 of the Convention. This statute, in general, provides for assistance to families of children "in need of protection" and the further care and protection of the child if the family situation breaks down. The best interests of the child are paramount and every care is taken in this act to recognize the needs and requirements for a safe and secure environment for the child.

984. The *Custody Jurisdiction and Enforcement Act* specifically requires that when an application for custody is made to a court that the court "shall take into consideration the views and preferences of the child to the extent that the child is able to express them" (section 8 (1)).

D. Civil rights and freedoms

985. The *Vital Statistics Act* of this province requires the registration of the birth of a child by name. This name can then only be changed under certain restricted circumstances, for example, by marriage or pursuant to an application under the *Change of Name Act*. A child is, by law, the child of his or her natural parents or adopting parents, pursuant to the *Child Status Act*.

986. The *Human Rights Act* of this province also protects all individuals from discrimination, on the basis of religious and political belief, in employment, accommodation, services, or facilities to which the public have access.

E. Family environment and alternative care

987. The *Family and Child Services Act* and subsequent amendments made in 1990 give the Government of Prince Edward Island the legislative and administrative authority to provide supportive, supplementary, and substitute services to children and their families. The intent of this Act is well explained in the

definition of "best interests of the child" as defined in section 1 (i) (d) and a "child in need of protection" as defined in section 1 (2).

988. Both of these sections emphasize the significance of emotional, mental and physical development of children, the importance of parents, of family and family relationships and the circumstances under which State intervention will occur to protect children. The Act thus addresses articles 5, 9, 10, 18, 19, 20 and 39 of the Convention.

989. The Act does not specify the rights and responsibilities of children and parents. However, these rights and responsibilities are implicit in the policies and procedures that guide the implementation of the Act.

990. Articles 19 and 20 of the Convention are further reflected in sections 3 to 8 and sections 9 to 11 of the *Family and Child Services Act*. Sections 3 to 8 define the role and accountability of the Director of Child Welfare for the province. These sections reflect article 25 of the Convention. Policy and procedures emphasize the significance of placement review. Sections 9 to 11 highlight the importance of services to families. The Act provides for supportive and supplementary services. In practice, family support services are extensively used in this province. Practices as well as policies and procedures reinforce the principle of maintaining children within their own family. Providing these supportive and supplementary services are consistent with the intent of article 39 of the Convention.

991. The *Maintenance Enforcement Act* of Prince Edward Island was adopted to collect maintenance to support a spouse, child or both as ordered by a court, either inside or outside of Prince Edward Island, and creates the office of Director of Maintenance Enforcement to do so. The powers under this Act to enforce payment, both of current support and arrears, are extensive and are proving effective in meeting the province's commitments pursuant to article 27 (4) of the Convention.

992. The *Adoption Act* of this province allows a judge of the Supreme Court to approve the adoption of a child where the child, the guardian of the child, or the petitioner of adoption of the child is a resident of Prince Edward Island. This province is of the opinion that the protections and process in place pursuant to this Act provide all the protection and rights outlined under article 21 of the Convention.

F. Basic health and welfare

993. The Province of Prince Edward Island has a wide range of comprehensive programmes for preventing and reporting diseases communicable to children, including AIDS and the HIV virus. Over 99 per cent of children in Prince Edward Island are immunized. All infants on Prince Edward Island are assessed for physical growth and development, nutritional status, vision, hearing, speech and social development at five stages up to the age of 18 months. An AIDS prevention programme for youth and families using both professional staff and peer education is provided by the Division of Public Health Nursing. Municipal and private water supplies in this province are routinely monitored pursuant to standards published by Health and Welfare Canada.

994. Through infant's assessment, nutritional deficiencies are identified in early stages and remedies through a variety of programmes.

995. Reproductive care is available for all pregnant women in the province. Physicians screen for medical, nutritional and lifestyle risk factors and referrals are made to community-based and public health programmes. Where there is financial need, vitamin and mineral supplements and milk tickets are made available to high-risk women and a pregnancy food allowance is also available. Currently, 50 per cent of lactating women breast-feed their children and where need exists, financial assistance is available to provide an adequate diet for both the mother and the child.

996. One of the results of these programmes has been the increase in infant birth-weight in this province.

997. Pre- and post-natal education programmes are also available with particular emphasis on teenage mothers.

G. Education, leisure and cultural activities

998. The Government of Prince Edward Island provides free education and transportation to school for all children in the province between the ages of 6 and 20 years. School attendance is mandatory between the ages of 7 and 16. Under the *School Act* of this province, parents are required to take responsibility for the child's attendance in school.

999. At the high school level, academic, general and vocational programmes are provided within the regular school system. In addition, guidance programmes are established in all schools in the province.

1000. Following high school, students may pursue further academic credentials through the University of Prince Edward Island or vocational training through Holland College. Both of these institutions are supported by provincial funding. Admission standards to post-secondary school education are based on the capabilities of the student.

1001. Education is provided in French for French-speaking students from grades 1 to 12 in the provincially-funded education system. Regular attendance at school is encouraged and practices are in place to alert parents when the attendance of a child for which they are responsible becomes irregular.

1002. The province of Prince Edward Island adopted a philosophy of education in 1990 which includes the following statements which corresponds to the principles enunciated in article 29 of the Convention:

> "The purpose of the Prince Edward Island public education system is to provide for the development of children so that each may take a meaningful place in society.
>
> Public education in Prince Edward Island is based on a quality programme that respects the intrinsic value of the individual and centres on the development of each child.

The public education system recognizes that education is a responsibility shared among the school, the family, and the community.

The public education system demonstrates respect and support for fundamental human rights as identified in the *Canadian Charter of Rights and Freedoms* and the P.E.I. *Human Rights Act*.

The public education system reflects the character, cultural heritage and democratic institutions of the society it serves."

1003. Through the school system, the province of Prince Edward Island provides a number of programmes on arts and culture. All schools in the province feature courses in music, and courses in social studies cover cultural matters to some extent. School personnel in this province carry out their work assignments with full regard to the age of the child and the child's need for rest and leisure.

1004. The provincial government directly and indirectly supports the development of recreational areas for all its citizens, including children, through the provincial park system and grants provided to municipalities.

1005. The provincial government provides support for more than 60 bodies, supervising organized sports within the province, most of whom provide athletic and recreational outlets for children. The province also supports the certification and upgrading of coaches, many of whom deal directly with children.

1006. Prince Edward Island has a comprehensive library system which not only provides reference materials and educational activities, but also is a centre for cultural development. This complements the province's extensive heritage and museum system, and both provide the opportunity for children to participate in cultural and recreational pursuits.

H. Special protection measures

1007. The programme philosophy policy and practice of the provincial Community and Correctional Services which has the responsibility of dealing with children who have come in conflict with the law within this province are outlined in a mission statement adopted in 1990, as well as a statement of philosophy for the operation of the youth centre which is an institution specifically designed to deal with children. The mission statement of Community and Correctional Services includes the following principles indicating that it:

"conducts its activities in a humane and professional manner and, where possible, respects confidentiality consistent with the protection of society;

recognizes that people have inherent worth and dignity and, given adequate support, the ability to change;

recognizes people have the right to participate in that determination of their needs and how these needs are met."

1008. The statement of philosophy for the Prince Edward Island Youth Centre states that the individual worth of each child in their care is recognized and that the intent is to "focus on the whole person: his physical, mental, emotional, spiritual, and social needs". The philosophy further indicates that efforts will be made to "maximize their potential regardless of racial, religious, political, economic or social status".

1009. Consistent with the reservation filed by Canada, this province must, on occasion, place a child in detention at an adult facility for a short period of time. The child is held separate from adult prisoners and is moved to a youth facility as quickly as possible. The *Young Offenders Act* (P.E.I.) complements the *Young Offenders Act* (Canada) and provides for the administration of justice when dealing with offences committed by young persons. This statute and the philosophy and practices of Community and Correctional Services are consistent with the letter and intent of article 40 of the Convention.

1010. In January 1993, the Province adopted the report, "Youth, Families and Communities: The New Paradigm for Action" as public policy. The report outlines a vision and set of principles which highlights the significance of services and programmes to children in the context of their families and communities. It also states that children and youth are given priority in the distribution of resources.

1011. Both this report and the *Family and Child Services Act* respond to articles 32 to 36 of the Convention.

1012. Child employment in Prince Edward Island is restricted under the *Youth Employment Act*, as pointed out earlier in this report. Those individuals not covered by the definition of a "young person" in that statute are protected under other statutes of the province, as are the adult workforce. For example, everyone in the province is protected under the *Employment Standards Act*, which outlines a variety of employment conditions imposed by statute. Included in the *Employment Standards Act* of Prince Edward Island is a requirement that all employers have a posted policy on sexual harassment and make every reasonable effort to ensure that no employee is subjected to sexual harassment. This policy applies not only to adult employees, but also any employees under the age of 18.

1013. The *Family and Child Services Act* of P.E.I. defines a "child in need of protection" as including children who have been physically abused, neglected, or sexually exploited. Also included are children who are forced or induced to do work disproportionate to their strength or to perform in public in a manner unacceptable for the child's age. The definition includes children whose environment or associations are likely to injure the child and also a child whose emotional or mental health or development is in danger from a lack of affection or guidance. This definition and the actions which flow from it through the *Family and Child Services Act* meet the concerns of the Convention outlined in articles 32, 33, 34, 35, 36 and 39. Reinforcement is provided by the philosophy and practices followed by those provincial authorities responsible for the implementation of the *Family and Child Services Act*.

1014. Children belonging to minority or indigenous groups receive support from this province in a variety of ways. In addition to the French-language

programme referred to under the education portions of this report, the provincial government provides financial support to the provincial Multicultural Council, which provides services to minority groups and encourages the maintenance of the various minority cultures present on Prince Edward Island. The multicultural policy adopted by the Province of Prince Edward Island encourages the cultural activity of minority groups and the acceptance of minority cultures.

VIII. NEW BRUNSWICK

A. General

Department of Health and Community Services, Office for Childhood Services

1015. The Office of Childhood Services has an interdepartmental mandate to coordinate policies on services for children. This is done through the mechanism of the Interdepartmental Committee on Childhood Services. The Office for Childhood Services has published a policy framework document, "Playing for Keeps: Improving Our Children's Quality of Life" which outlines policy directions for children's services in the province.

Legislative measures

1016. The *Custody and Detention of Young Persons Act* was proclaimed on 1 June 1992. This Act establishes a comprehensive legislative framework regulating the conditions of confinement, powers of correctional personnel and treatment (classification, rights, programming, etc.) of youth in custodial facilities. The provisions of the Act comply with and, in certain instances exceed, the standard of treatment entrenched in the Convention. The provisions of the *Custody and Detention of Young Persons Act* have been elaborated by Regulation 92-71.

1017. Following ratification of the Convention, the province enacted the *Provincial Offences Procedure for Young Persons Act*, which entrenches special guarantees concerning alternative measures, trial in youth court, youth workers, pre-sentence detention, sentencing (including pre-sentence reports) and release of young persons and functions as a complement to the *Provincial Offences Procedure Act*.

1018. The *Family Services Act* imposes mandatory reporting responsibilities upon peace officers and correctional personnel in cases of suspected abuse.

Administrative measures

1019. The Department of the Solicitor-General has undertaken a number of important legislative and administrative measures designed to coordinate policies relating to children, to foster recognition of the rights of children and to monitor the implementation of the Convention. During 1991, the Department participated in the development of a Three-Year Action Plan for Childhood Services. Development was coordinated by the Office for Childhood Services with the participation of the Departments of Advanced Education and Labour, Education, Finance, Health and Community Services, Income Assistance, Justice, Municipalities, Solicitor-General, Policy Secretariat and the Mental Health Commission. The Three-Year Plan's main aims are to promote individual

development according to the individual child's needs, to protect children most at risk and to strengthen parental support services.

1020. The Action Plan of the Department of the Solicitor-General incorporates service and programme requirements directly related to two groups: (i) direct services and programmes for children from birth to 12 years; and (ii) custodial and related services for Young Offenders (age 12 to 17 inclusive, as stipulated by the *Young Offenders Act*).

Current programmes

1021. The Department of the Solicitor-General ensures that an effective law enforcement system is in place through a contract with the RCMP to act as the provincial police force and to ensure that municipalities have policing services in place. Municipal governments are responsible for the establishment and implementation of policies and specific programmes to address community needs.

1022. The programmes and services related to children mentioned in paragraphs 1023 to 1025 are those provided by police agencies in the province. Not all these programmes are available throughout the province, but are put into place at the request of communities policed by the RCMP and on an as-needed basis by municipal forces with crime prevention programmes. Fourteen municipal police forces have dedicated positions for crime prevention programmes.

1023. The following Crime Prevention programmes are offered: Block Parents, Bicycle Rodeos, Personal Safety Programmes in the Schools, Neighbourhood Watch, Drug Awareness, Crime Stoppers in Schools, Store Front, Victim Witness Police Based Services, Child Sexual Abuse, Child Protection Cases, Teddy Bear/Lion Programme, Missing Children and Parent Child Abduction.

1024. Correctional Services in the province are the responsibility of the Department of the Solicitor-General. The general objectives of the Correctional Services Division, Department of the Solicitor-General are: to provide for the protection of society from harmful or dangerous offenders; to provide for the humane treatment of the offender, including opportunities for change; and to provide a range of support services for victims to ensure that they are adequately and fairly treated by the criminal justice system. The following services are provided to children and youth by the Correctional Services Division: Victim Services, Impact Statements, Compensation for Victims of Crime, and Victim Surcharge.

1025. As to Offender Services, the Department of the Solicitor-General has uniform policies and procedures for the treatment of youth on probation subject to community supervision. The purpose of such policies and procedures is to ensure fairness in treatment and to guarantee that the terms of the probation order will help rehabilitate and reintegrate the youthful offender. In conjunction with the Department of Health and Community Services, the Department of the Solicitor-General has developed "Open Custody Service Standards". These prescribe the conditions of treatment of children in open custody facilities operated by the Department of Health and Community Services. Further to Regulation 92-71, enacted pursuant to the *Custody and Detention of Young Persons Act*, the Department is also preparing a manual

entitled "Institutional Services: Policies and Procedures Manual" which will determine conditions of confinement in secure-custody facilities for young offenders. The Manual will comply with both the *Canadian Charter of Rights and Freedoms* and the Convention.

1026. The Department started a Youth Advocacy Programme in 1991. This programme allows youth incarcerated in the two secure custodial facilities operated by the Department (Madawaska and the New Brunswick Training School) to communicate concerns about staff or operational policies to the institutional social worker, the departmental youth advocate, and the provincial ombudsman.

1027. The Department has also participated with the Departments of Justice, Education, Income Assistance and Health and Community Services in the development of Provincial Guidelines for Protecting Child Victims of Abuse and Neglect, which define the respective roles of social workers, police and Crown Prosecutors in responding to allegations of child abuse (including those arising from the mandatory reporting provisions of the *Family Services Act*). The guidelines cover the investigation and management of reports of child abuse and define procedures for inter-agency referral and follow-up, joint investigation (including interviews of the child, family members and suspect), information sharing, legal action (child protection and guardianship applications), assessment and intervention plans, criminal prosecutions, family court proceedings, and follow-up to dispositions in criminal and family courts.

1028. The guidelines have been subjected to intense scrutiny since their introduction in 1989 and have been substantially revised. The new guidelines will apply to all aspects of the machinery of criminal justice (police, Crown Courts, victim services and correctional services) and are intended as a comprehensive governmental response to all forms of child abuse, including that which occurs within an institutional setting.

1. Article 2

Department of Health and Community Services

1029. According to the *Family Services Act*, a child is defined as "a person under the age of majority (19)". The age of majority, however, varies according to the Act or legislation being consulted. Following are the Acts which are administered by the Department of Health and Community Services and the relevant legal minimum ages:

(a) *Medical Consent of Minors Act*: The law respecting consent to medical treatment considers all persons over 16 years of age as being of the age of majority. Persons under 16 may consent to medical treatment in certain circumstances "where in the opinion of a legally qualified medical practitioner or legally qualified dentist ... the minor is capable of understanding the nature and consequences of a medical treatment and the procedure to be used is in the best interests of the minor and his continuing health and well-being";

(b) *Liquor Control Act*: The legal minimum drinking age is 19. Children 12 years of age and older, in the presence of a parent or guardian

during consumption of a meal, may be served beer or wine. There are no legal age limits for children consuming alcoholic beverages at home being served by a parent;

(c) *Tobacco Sales Act*: The legal sale of tobacco is restricted to persons 19 years of age and older;

(d) *Marriage Act*: The minimum legal age for marriage without consent of a parent or judge is 18 years. Children who have attained 16 years of age may marry with the consent of a parent. A child under 16 years of age who has a dependant may marry without the consent of a parent or a judge.

Department of the Solicitor-General

1030. Legislative schemes enforced by or affecting the operations of the Department of the Solicitor-General comply with or exceed the level of protection afforded by the Convention.

(a) Provincial age of majority: As a general rule, for purposes of provincial law, a child is defined by section 1 (1) of the Age of Majority Act as any person who is or who appears to be below the age of majority which is defined as 19;

(b) Age of criminal responsibility: Age stipulations governing the quasi-criminal liability of children are contained in the *Provincial Offences Procedure for Young Persons Act* which establishes the age of quasi-criminal liability pursuant to provincial law;

(c) Deprivation of liberty: The *Custody and Detention of Young Persons Act*, which governs the custodial detention of young persons convicted of criminal and quasi-criminal offences in conjunction with the federal *Young Offenders Act*, adopts the minimum and maximum age guidelines contained in the federal Act;

(d) Consent to medical treatment: Although regulation of medical services is mainly under the administrative authority of the Ministry of Health and Community Services, New Brunswick Regulation 92-71, enacted pursuant to the *Custody and Detention of Young Persons Act*, requires that supervisors of secure youth custodial facilities "arrange for the young person to undergo such medical, psychiatric, psychological and dental examinations and treatment as appear necessary". Rules governing the age of consent to medical treatment are thus of concern to the Department. The *Medical Consent of Minors Act* provides that minors who have attained the age of 16 possess full powers of consent and that minors below the age of 16 may be legally capable of consenting to medical treatment if, in the opinion of two qualified medical practitioners, the minor is capable of understanding the nature and consequences of medical treatment and if the medical treatment is in the best interests of the minor. Consent of a minor or his or her parents or guardian may be dispensed with in emergency situations if the minor is incapable of understanding the nature of the treatment or of communicating consent or if the parent or guardian is unavailable. However, section 12 of the *Custody and Detention of Young Persons Act* provides that the consent provisions of the *Medical Consent of Minors Act* may be superseded if a person below the age of 16 who is detained in a youth custodial facility requires medical treatment

and the consent of the parent or guardian is required by law and is refused or unobtainable. In such circumstances, the Solicitor-General may consent to medical treatment;

(e) Access to independent legal counsel: The *Provincial Offences Procedure for Young Persons Act* confirms the right of children between the ages of 12 and 18 to retain and instruct counsel without delay and to exercise that right personally "at any stage of proceedings against the young person and prior to and during any consideration of whether, instead of commencing or continuing judicial proceedings against the young person, to use alternative measures to deal with the young person". The young person is entitled to access to existing legal aid programmes. If no legal aid programme is available or if the young person is unable to obtain counsel through a legal aid programme, the youth court is empowered to direct the Attorney General of the Province to appoint counsel. Each young person is entitled to representation by independent counsel "in any case where it appears to a youth court judge or a justice that the interests of the young person and his parents are in conflict or that it would be in the best interest of the young person to be represented by his own counsel, the judge or justice shall ensure that the young person is represented by counsel independent of his parents". (*Young Offenders Act; Provincial Offences Procedure for Young Persons Act*);

(f) International child abduction: The provincial enactment incorporating the provision of the *Convention on International Child Abduction* stipulates that the treaty and Act are applicable to children from birth to 16 years;

(g) Consumption of controlled substances: Alcoholic beverages may not be sold, given, served, or otherwise supplied to anyone under the age of 19 years or appearing to be under that age, according to the *Liquor Control Act*.

Department of Advanced Education and Labour, Human Rights Commission

1031. The *Human Rights Act* is a provincial law that prohibits discrimination in employment, occupancy of commercial and residential premises, sale of property, services provided to the public, signs, and membership in certain associations. The Act applies to the provincial and municipal governments and to the provincially regulated private sector. Discrimination is prohibited on the following grounds: age, race, colour, national origin, place of origin, ancestry (including mother-tongue), religion, physical and mental disability, sex (including pregnancy), sexual orientation and marital status. The same protection against discrimination is provided to children as to adults.

1032. The *Human Rights Act* does not generally prohibit discrimination against a child because of the status, activities, opinions or non-religious beliefs of his or her parents, guardian or family members, but the Human Rights Commission interprets the Act as prohibiting discrimination based on the race, colour, religion, etc. of his or her parents, guardian or family members.

1033. Persons who believe that they have been discriminated against contrary to the *Human Rights Act* may file a complaint. The Human Rights Commission is responsible for investigating and conciliating such complaints. If a substantiated complaint cannot be settled amicably, it may be referred to a

board of inquiry, which is an *ad hoc* quasi-judicial tribunal. The tribunal, after hearing the evidence, may dismiss the complaint or issue an order to remedy it. Such an order may include, for example, monetary compensation, an offer of employment or an offer of an apartment. The process is free of charge.

1034. Until recently, the *Human Rights Act* contained a definition of "age" which excluded those who were less than 19 years old, with the result that they were not protected from age discrimination. This definition was repealed on 20 May 1992. Accordingly, the Act currently provides generally the same protection to children as it does to adults, including protection against discrimination based on age.

Department of Education

1035. The Department of Education has a special responsibility for ensuring that the educational system is free of discrimination. In August of 1989, a ministerial statement entitled "Multicultural/Human Rights Education" outlined the following guiding principles: that every individual has a right to be educated in a school system that is free from bias, prejudice and intolerance; that any manifestation of discrimination on the basis of sex, race, ethnicity, culture or religion by any persons in the public school system is unacceptable; that school programmes and practices promote students's self-esteem and assist in developing a pride in one's own culture and heritage; that the school curriculum be free of bias and stereotyping and open to the study of the contributions and achievements of all peoples; that multicultural community groups be actively involved in shaping policy and practices in the schools; that employment and promotion practices will be based on merit and ability and free from discriminatory barriers.

1036. The Department of Education attempts to promote racial harmony by sensitizing students in the school system as well as educational personnel to various issues related to racial discrimination. The Department has conducted a review of curriculum materials to ensure that they are free of bias and stereotypes. Information sessions are held for curriculum development groups to instruct them in the use of guidelines to detect bias and stereotyping in learning materials.

2. Article 3

Department of Health and Community Services

1037. New government measures have been introduced pertinent to the "best interests of the child" and "the rights to life, survival and development", including funding for AIDS prevention, earlier administration of immunization for haemophilus influenza type b (Hib) and Early Childhood Initiatives announced in September 1992.

Department of the Solicitor-General

1038. The "best interests of the child" is a primary factor to be considered when determining the following matters: eligibility of the child for alternative measures; placement prior to disposition; transfer to adult court; attendance of parents at court proceedings; representation by independent

counsel; detention pending trial; disposition by youth court; placement on conviction by adult court; periodic review of disposition; transfer from secure to open custody; and protection of privacy of children, including non-disclosure of criminal records.

1039. The *Custody and Detention of Young Persons Act* which governs conditions of confinement of young persons is premised upon the best interests of the child. Both the legislative and administrative policy of the Department is to use custody only as a last resort. Non-custodial sanctions, including probation and community services orders are the preferred sanctions in the best interests of the child.

1040. In its administrative policies on treatment of youthful offenders, the Department has ensured that all children in provincial custodial facilities enjoy adequate medical and dental care (including psychiatric counselling), the full range of educational and vocational training, psychological services, recreation, rehabilitative programming, and adequate diet, housing and clothing. According to both the *Custody and Detention of Young Persons Act* and its companion regulation, young persons in custodial facilities are entitled to periodic review of the conditions of custody and have unrestricted access to internal grievance procedures, youth advocates and the provincial ombudsman, in order to resolve complaints concerning treatment or operational policy. Young persons enjoy those rights which are extended to adult offenders, including the right to maintain contact with the outside world (through correspondence and visits) and the right to practise one's religion subject only to the countervailing institutional interest in safety and order.

3. Article 6

Department of Health and Community Services

1041. See paragraph 1037.

Department of the Solicitor-General

1042. The administrative policies of the Department with respect to the treatment of youthful offenders are designed to foster rehabilitation and reintegration of the child and to that extent foster survival and development.

4. Article 12

Department of the Solicitor-General

1043. The *Provincial Offences Procedure for Young Persons Act* recognizes the right of the young person to express his or her views with respect and to be represented by counsel during the various stages of the criminal process. Subsequent to disposition, the young offender held in secure custodial facilities is entitled to express his or her views during any internal decision-making procedure which adversely affects his or her interests, as a component of basic doctrines of natural justice. This right is based upon section 2 (b) of the *Custody and Detention of Young Persons Act* which provides that "young persons have rights and freedoms in their own right, including those stated in the *Canadian Charter of Rights and Freedoms* and in particular

a right to be heard in the course of, and to participate in, the processes that lead to decisions that affect them, and young persons should have special guarantees of their rights and freedoms".

1044. The scope of participation by youthful offenders in internal administrative processes which adversely affect guaranteed liberty and security interests is defined in New Brunswick Regulation 92-71, enacted pursuant to the *Custody and Detention of Young Persons Act*. According to the Regulation, young persons are granted the rights to participate in disciplinary proceedings, application for release from secure custody, internal appeals and grievance processes.

B. Civil rights and freedoms

1. Articles 7, 8, 13-17

Department of the Solicitor-General

1045. These articles are of potential relevance to the management of provincial young offender custodial facilities. Departmental policies seek to protect the rights of the child in this context, subject only to those reasonable limits which are justifiable in the interest of institutional order and security. The legislative statements and internal administrative directives employed by the Department to regulate the conditions of confinement of youthful offenders comply with the relevant provisions of the *Charter of Rights and Freedoms* governing rights to expression, communication and privacy. By inference, such rights are ensured by the operation of Regulations 92-71, enacted pursuant to the *Custody and Detention of Young Persons Act*, which authorize supervisors of youth custodial facilities to establish social and entertainment programmes, religious services, visiting programmes and "such other programmes that the supervisor considers desirable, advisable or necessary and that are consistent with section 2 of the Act" which fulfil the special rehabilitative needs of young persons.

1046. Limited privacy rights inhering in youthful offenders are given effect by the Regulation which governs the powers of search and seizure held by correctional and health care personnel. In general terms, the Regulation requires all searches (other than those upon admission or transfer) to be justified by proof of probable cause and prohibits searches by members of the opposite sex, except those conducted by health care professionals or emergency searches directed towards the detection of dangerous or harmful contraband.

2. Article 14: Freedom of thought, conscience and religion

Department of Advanced Education and Labour, Human Rights Commission

1047. The *Human Rights Act* prohibits discrimination on the basis of religion with respect to employment, commercial and residential premises, sale of property, services provided to the public, signs, and membership in certain associations. The Act applies to the provincial and municipal governments and to the provincially regulated private sector. The same protection against discrimination is provided to children as to adults.

1048. The protection against religious discrimination is subject to exemptions that may be granted by the New Brunswick Human Rights Commission under the Act, when it determines that a particular religion is a bona fide occupational qualification for a particular job (e.g. as a minister in a church). Four such exemptions had been made, as of 1 May 1993. The protection against religious discrimination may also be subject to any special programmes designed to promote the welfare of disadvantaged religious groups that may be approved by the Commission pursuant to the Act.

3. Article 16: Protection of privacy

Department of Advanced Education and Labour, Human Rights Commission

1049. Under the *Human Rights Act*, children are entitled to the same protection against harassment as is provided to adults in respect of employment, occupancy of premises, sale of property, public services and membership in certain associations. The Act explicitly prohibits sexual harassment and implicitly prohibits harassment based on race, colour, national origin, place of origin, ancestry, religion, physical and mental disability, sex (including pregnancy), sexual orientation and marital status.

4. Article 37 (a): The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

Department of the Solicitor-General

1050. Departmental policies concerning the treatment of youthful offenders comply with the relevant provisions of the *Young Offenders Act*. The maximum sentence which may be imposed under the *Provincial Offences Procedure for Young Persons Act* is six months' imprisonment or a fine of not more than one thousand dollars. Custody is to be imposed as a sanction of last resort as children enjoy the right to "the least possible interference with freedom that is consistent with the protection of society, having regard to the needs of young persons and the interests of their families". Placement in custodial facilities is subject to periodic review.

1051. Regulation 92-71 enacted pursuant to the *Custody and Detention of Young Persons Act*, which determines the conditions of custody of the institutionalized young offender prohibits the infliction of cruel, degrading or inhuman treatment.

C. Family environment and alternative care

1. Article 5: Parental guidance

Department of Health and Community Services

1052. The *Family Services Act* refers to the family as the basic unit of society. It is accepted that parents have responsibility for the care and supervision of their children and that children should only be removed from parental supervision either partly or entirely when all other measures are inappropriate. Child Protection Standards address the issue of community standards by which a family is measured or assessed.

Department of the Solicitor-General

1053. The rights of parental guidance are explicitly confirmed in the preamble to the *Provincial Offences Procedure for Young Persons Act*. The Department is also party to a variety of interdepartmental protocols and initiatives concerning victim services, family violence and child protection which are designed to offer support to families in crisis, which are described in greater detail in the Departmental report on article 4, above.

1054. The policies of correctional institutions encourage the maintenance of family ties through visitation and correspondence.

2. Article 18, paragraphs 1-2: Parental responsibilities

Department of Health and Community Services, Office for Childhood Services

1055. The 1992 policy framework document Playing For Keeps (pp. 54 and 57) identifies the values, beliefs and principles used by this government in relation to the roles of government and parents with respect to children. These are consistent with the principles articulated in the *Convention on the Rights of the Child*.

3. Article 9: Separation from parents

Department of the Solicitor-General

1056. The *Provincial Offenders Procedures for Young Persons Act* provides for a role for parents in criminal and quasi-criminal proceedings involving children; parents must be notified upon arrest and involved in adjudication and in the determination of disposition based upon psychological assessments and pre-disposition reports. The extent of parental involvement is reflected in the legislative provisions. The Department encourages the maintenance of contact between sentenced children and parents through visits and involvement of parents in the fulfilment of non-custodial sanctions, where appropriate and in the best interests of the child.

4. Article 10: Family reunification

Department of Health and Community Services

1057. The *Family Services Act* is silent on this issue of reunification. However, long-term plans for children are always a priority and consideration is given to keeping children with their family or extended families, if at all possible.

5. Article 27, paragraph 4: Recovery of maintenance for the child

Department of Health and Community Services

1058. The Province of New Brunswick encourages parents to remain involved with their children, whether through financial contribution, or continued responsibility for the child as indicated in the principles from which the *Family Services Act* was developed.

6. Article 20: Children deprived of a family environment

Department of Health and Community Services

1059. The *Family Services Act* provides for the protection of children whose parents cannot adequately ensure care for and control of their children. If the security and development of the child is found to be in danger, the child may be considered to be in need of protection. This could lead to providing more resources to the family or it may require the removal of the child from the care of the parents. A system of foster care, which may include the home of a relative, is in place to provide the substitute care. This may include group homes, treatment facilities or both and an adoptive home if the courts grant guardianship on behalf of the child.

Department of the Solicitor-General

1060. The Department does provide special protection and assistance to children deprived of a family environment through police investigation for child sexual abuse, special services to child victims and rehabilitation programmes for institutionalized youth. Such programmes and initiatives are described in greater detail under the heading "Article 4 - General Measures of Implementation".

7. Article 21: Adoption

Department of Health and Community Services

1061. The Family and Community Social Services Division plans to increase the participation of the natural father in adoption planning.

8. Article 11: Illicit transfer and non-return

Department of the Solicitor-General

1062. The Department is currently working, along with other concerned Ministries, to develop protocols on international child abduction.

9. Article 19: Abuse and neglect; Article 39: Physical and psychological recovery and social reintegration

Department of Advanced Education and Labour, Human Rights Commission

1063. Under the *Human Rights Act*, children are entitled to the same protection from sexual harassment as is provided to adults in services available to the public, such as schools.

Department of the Solicitor-General

1064. The Department is party to interdepartmental "Guidelines for Protecting Child Victims of Abuse and Neglect", which were developed in conjunction with the provincial *Family Services Act*. The guidelines provide a comprehensive regime to respond to prevention, identification, reporting, referral, investigation, treatment and follow-up of allegations of child abuse.

1065. Under the *Family Services Act*, it is mandatory for both police and correctional officers to report all instances of suspected child abuse. Children held in provincial correctional facilities are entitled to be protected from abuse and other forms of mistreatment. Departmental social workers and the Youth Advocate monitor the conditions of confinement and, in addition, the Provincial ombudsman is authorized to investigate and respond to complaints from young offenders about treatment and institutional policies.

10. Article 25: Periodic review of placement

Department of Health and Community Services

1066. The *Family Services Act* prescribes a periodic review of the situation of children placed under the care of the Department. This can include a quarterly review for children placed in temporary care and an annual review for children in the care of guardians. The Act also limits the custody order to a period of 6 months to a cumulative amount totalling 24 months. Agreements also fall under the same restrictions.

Department of the Solicitor-General

1067. Department officials regularly monitor the location, classification and conditions of confinement of institutionalized youth pursuant to the statutory obligations imposed by the *Young Offenders Act*.

D. Basic health and welfare

1. Article 6, paragraph 2: survival and development

Department of Health and Community Services

1068. The Early Childhood Initiatives are a series of six initiatives designed to increase healthy pregnancy outcomes of pregnant women at risk, foster healthy growth and improve developmental outcomes for children at risk and reduce the incidence of child abuse and neglect in New Brunswick.

Department of the Solicitor-General

1069. See report under article 6.

2. Article 23: disabled children

Department of Advanced Education and Labour, Human Rights Commission

1070. The *Human Rights Act* prohibits discrimination on the basis of physical and mental disability with respect to employment, commercial and residential premises, sale of property, services provided to the public, signs, and membership in certain associations. The Act applies to the provincial and municipal governments and to the provincially regulated private sector. The same protection against discrimination is provided to disabled children as to disabled adults. Public services to which the Act applies include the educational system, training, rehabilitation and employment preparation programmes (except those under federal jurisdiction), the health-care system and recreational facilities and programmes.

1071. The protection against discrimination on the basis of disability is subject to exemptions that may be granted by the New Brunswick Human Rights Commission under the Act, when it determines that a particular ability is a bona fide qualification for a particular job, occupancy of a particular premises or receipt of a particular public service. As of 1 May 1993, 13 such exemptions had been granted by the Commission.

Department of Health and Community Services

1072. The Integrated Day Care component of the Early Childhood Initiatives is designed to ensure the child's fullest participation with his or her peers in developmentally appropriate community-based child-care services, help the child achieve his or her developmental potential and improve the child's readiness for public kindergarten.

Department of Education

1073. The Department of Education recognizes the rights of all children, including those with special needs, to an appropriate education in the presence of children of their own age. In 1981, the Minister of Eduction carried out a study of the *Auxiliary Classes Act* and of the provision of services to trainable students in the Province who were mentally handicapped or had cerebral palsy. The main purpose of this project was "to ensure the right to an appropriate education in the least restrictive environment for the mentally handicapped and children with other special needs". Correia and Goguen (1983) reported to the Minister and recommended that the *Auxiliary Classes Act* and the *Schools Act* (Province of New Brunswick, 1967) be revised so that one Act would be responsible for providing appropriate educational programmes and free school privileges for all students.

1074. Following the proclamation for *Bill 85 - An Act to Amend the Schools Act*, the Department of Education (1987) published a document that outlined its philosophy and working guidelines on integration. The Department's position can be summarized thus: (1) students having special needs will have those needs served; (2) exceptional students are to be educated with children their own age in the environment which can best meet their educational and related needs; (3) exceptional pupils should be removed from the regular class environment only when extensive and appropriate individual programme planning shows that regular classes, even with additional supports and services, cannot meet the students' educational and social needs; and (4) if removal from the regular class is deemed necessary, this should be only for short periods and the aim should be to return the child to the regular class as soon as possible.

1075. With the repeal of the *Auxiliary Classes Act*, the Minister of Education is responsible for providing services under the regular *Schools Act* to children who were formerly excluded from school. The revised *Schools Act* (1990) states that free school privileges are to be granted to persons from 3 to 21 years of age who are exceptional pupils receiving special education programmes and services that would have been provided under the authority of the *Auxiliary Classes Act*.

3. Article 24: health and health services

Department of Advanced Education and Labour, Human Rights Commission

1076. The *Human Rights Act* prohibits discrimination on the basis of age with respect to services provided to the public such as health care. The Act applies to the provincial and municipal governments and to the services provided to the public by the provincially regulated private sector.

Department of Health and Community Services

1077. The Early Childhood Initiatives were designed to improve coordination among departments and among divisions within the Department of Health and Community Services. The Public Health Division will screen, refer, provide intervention and track all children coming into the Early Childhood Initiatives Programme. This tracking function ensures that all children who were identified as "high priority" or "at risk" will be registered and their progress through the health and social service system will be monitored until they enter school. At that time, the Public Health system may continue their involvement if necessary, but the family's association with the Early Childhood Initiatives will be ended.

Department of the Solicitor-General

1078. Regulation 92-71 pursuant to the *Custody and Detention of Young Person Act* requires that superintendents of youth custodial facilities "arrange for the young person to undergo such medical, psychiatric, psychological and dental examinations and treatment as appear necessary upon admission to the facility". The Regulation empowers supervisors of youth custodial facilities to establish medical and dental treatment programmes and provide any necessary facilities, equipment, prostheses and other required devices or aids as well as counselling programmes.

1079. Youthful offenders held in secure custodial facilities operated by the Department of the Solicitor-General enjoy full-time nursing care. The Department also retains the services of physicians (including psychologists) on a contractual basis who make regular visits to each institution and are available during emergencies.

4. Articles 26 and 18, paragraph 3: social security and child-care services and facilities

Department of Health and Community Services, Office for Childhood Services

1080. The Office for Childhood Services revised the Day-Care Facilities Standards in 1993 in order to improve access to regulated day-care services by children with disabilities and children whose development is delayed or a risk of being delayed due to established biological or social risk factors.

5. Article 27, paragraphs 1-3: standard of living

Department of Health and Community Services

1081. Children's right to an adequate standard of living is addressed in the *Family Services Act* which stipulates when a child may be in need of protection.

Department of the Solicitor-General

1082. The *Custody and Detention of Young Persons Act* and companion regulation ensure that correctional facilities under the jurisdiction of the Department recognize the "right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development". The Act imposes upon correctional officials obligations respecting the physical conditions of confinement, medical and psychological treatment of institutionalized youth, rehabilitative, educational and recreational programming and contact with the non-institutionalized community. These statutory duties are governed by internal institutional policies developed by the Corrections Branch of the Department of the Solicitor-General.

E. Education, leisure and cultural activities

1. Article 28: educating, including vocational training and guidance

Department of Education

1083. The *Schools Act* ensures that children at both the primary and secondary levels have free access to both general and vocational education.

1084. The Student Services Branch of the Department of Education recognizes that comprehensive school counselling services need to be readily available to all students. The Department is currently developing a model programme of guidance and counselling for district use that will bring a more balanced approach to the support of the education process. The Student Services Branch is currently working with two districts and has approached several others to implement such a programme. The programme is predicated on identifying student needs through formal Student Needs Assessment instruments, ensuring consultation with students, parents, teachers, administrators and the community. The model programme also will have a guidance programme component to evaluate the degree to which goals are achieved.

Strategies to prevent school drop-out

1085. The Mentorship (Hired) Programme enables school districts to hire staff to help at-risk students cope with regular attendance at school. Mentors act as student advocates and form a liaison with parents, counsellor, teachers, administrators and community agencies. All school districts receive support to hire mentors. The Mentorship (Volunteer) Programme provides grants to school districts to research volunteer mentoring. Programmes centred on school staff as well as community members as mentors are being explored and implemented. Under the Tutoring Programme, tutors are hired to engage in remedial instruction individually or in small groups. In some schools, peer

tutoring programmes have been introduced under the supervision of a qualified adult coordinator. All school districts receive support for tutoring.

1086. In order to provide accurate data on school drop-outs in the province, students withdrawals and transfers are recorded through a computerized Pupil Accounting System. The reasons for withdrawal (e.g. health, academic problems, financial problems) are also noted. In addition, the programme emphasizes follow-up to encourage them to return to school.

1087. Through the Cooperative Education Programme, school districts hire coordinators to oversee work experience for interested high school students. Cooperative education includes federally supported programmes for course credit. Summer Enhancement Programmes assist students in grades 6, 7 and 8 who are at risk of repeating a grade. Activities build academic competency and focus on life skills and improving self-esteem. An emphasis is placed on learning while having fun. The Computer and the Learning Disabled Programme provides students with learning disabilities with an opportunity to learn language arts through computer-assisted instruction. Project sites are equipped with microcomputers and a variety of software. Teachers involved in the project receive training.

1088. In-school Suspension Programmes, a more positive alternative than out-of-school suspension, enable students to continue with academic work while temporarily removed from the mainstream of the school. Qualified full-time staff provide counselling and tutoring to students who have been suspended from school.

1089. Lions-Quest Skills for Growing is a comprehensive programme for grades K-5 to help children develop the skills that lead to self-discipline, responsibility, good judgement and cooperation.

1090. The Student Parent Programme at Fredericton High School, School District 18, provides day care, a credit parenting course and individual counselling. The Student Assistance Programme at Fredericton High School in School District 18 provides counselling, assessment and intervention strategies for students with potential or real substance abuse problems.

1091. A Community Intervention Worker in St. George, School District 10, works with identified at-risk youth outside of school hours. The focus is a recreational one, intended to help students discover more positive ways to spend their time. A drop-in centre gives the group a meeting place for weekends and evenings.

1092. Under the Professional Development Programme, school districts hold workshops designed to sensitize educators to issue related to at-risk students. Teachers are given an opportunity to explore alternative teaching strategies and to develop more effective approaches. Training is provided in non-violent crisis intervention, conflict resolution, peer helping, cooperative learning and individual learning styles.

1093. School districts work with provincial and community agencies to organize community meetings for the discussion of school drop-out prevention. Parents, teachers, students and employers are provided with an opportunity to identify problems and recommend strategies collaboratively.

1094. In recognition of the disproportionately high number of Aboriginal students who do not complete secondary school, the unique needs of these students are considered when developing school drop-out prevention and intervention programmes. A model school drop-out prevention programme for Aboriginal students is located in Rexton, School District 16. This programme emphasizes parental involvement and Aboriginal culture. Native Students Courses have been introduced in a number of schools to develop the sense of identity of Aboriginal students.

1095. Youth Strategy is a federal-provincial partnership providing a framework to improve educational and employment opportunities for New Brunswick youth aged 15 to 24. The school-based component of Youth Strategy is the infrastructure for Stay-in-School initiatives which target youth between the ages of 12 and 18.

1096. The Department of Education is formulating a ministerial statement which addresses the question of school discipline. The document identifies appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity.

Department of the Solicitor-General

1097. Education is perceived as a vital component in the rehabilitation of the young offender. Therefore, Regulation 92-71 enacted pursuant to the *Custody and Detention of Young Persons Act* provides that institutional supervisors may establish and provide compulsory or voluntary educational programmes appropriate to the needs of each young person. Young offenders resident in open custodial facilities are granted temporary releases in order to attend school. During such releases, the youth is supervised by the operator of the open custody facility in conjunction with the *Young Offenders Act* Social Worker and Youth Worker.

1098. Children in secure custodial facilities have on-site access to individual educational programmes. The content of such programmes, which has both an academic and vocational component, has been approved by the Department of Education and is comparable in quality to that of the regular school system. The Department is an active participant in the Youth Strategy Programme. Through a contractual arrangement with the Department of Education, teachers have been hired for the two young offender secure custodial facilities. The emphasis of the Youth Strategy Programme is upon academic upgrading and literacy training with appropriate linkages upon release from incarceration with the Department of Labour, Education and Canada Employment.

2. Article 29: aims of education

Department of Advanced Education and Labour, Human Rights Commission

1099. Pursuant to the *Human Rights Act*, the New Brunswick Human Rights Commission is responsible for developing and conducting educational programmes designed to eliminate discriminatory practices related to race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation or sex.

1100. In accordance with this mandate, the Commission published a guide to audiovisual resources on human rights issues in 1991 and 1992. The Commission also assisted in the pilot testing of a series of curriculum units on human rights developed for students in grades 4, 5 and 6 by the Canadian Human Rights Foundation from 1987 to 1989. The Commission has sponsored poster, essay and video contests in schools on human rights. In 1992-1993, the Commission's staff gave 75 presentations to students enrolled in a variety of vocational and pre-employment life skills courses. In 1992, in conjunction with the Public Education and Information Service of New Brunswick and Communications New Brunswick, the Commission produced a 25-minute video, Keys/Les Clés, designed to raise human rights awareness among high school students. A vignette, a documentary and a few public service announcements for television will be produced in 1993. The Commission is also preparing a resource guide on human rights issues for high school students. All of the Commission's materials and programmes are made available in French and English.

Department of Education

1101. It is the primary aim of all curricula within our education system to develop a child's personality, talents and mental and physical abilities to their fullest potential. These underlying goals and objectives are identified in all the curriculum guides made available to teachers. Human rights education forms an integral part of the public school education in New Brunswick. While no single course deals exclusively or even principally with this subject, human rights topics are found in many parts of the curriculum that is prescribed for kindergarten through grade 12.

Department of the Solicitor-General

1102. See response under article 28.

3. Article 31: leisure, recreation and cultural activities

Department of Education

1103. The child's right to rest and leisure and to engage in the various activities outlined in article 31 of the Convention are the goals of several programmes within the prescribed curriculum in the public school system. Most notably, these are found in the Health, Music, Art Education, Physical Education at all levels and in the Kindergarten and Elementary Education curriculum. The kindergarten experience should contribute to their physical, intellectual, social and emotional development. Teachers are encouraged to recognize the importance of play and direct experience for young children. The Art Education curriculum is premised on assumptions about children which support the principles of article 31 of the Convention.

1104. A major objective of education is to assist children to develop physically, mentally, emotionally and socially so that they become healthy, happy and contributing members of society. Consistent with this philosophy, the general goals of the physical education programme are to enable each student to develop a knowledge about and proficiency in physical fitness and motor skills (i.e. learning to move), to develop a knowledge concerning

physical activity and its effects (i.e. how the body responds to activity), and to develop competence in living in one's social environment (i.e. the role of physical activity and daily living).

Department of the Solicitor-General

1105. Regulation 92-71 enacted pursuant to the *Custody and Detention of Young Persons Act* permits supervisors of youth custodial facilities to establish voluntary recreational programmes and voluntary social and entertainment programmes that are appropriate for young persons.

F. Special protection measures

1. Article 40: administration of juvenile justice

Department of the Solicitor-General

1106. The combination of the *Charter of Rights and Freedoms*, the *Young Offenders Act* and the *Provincial Offences Procedure for Young Persons Act* ensures that young persons enjoy the full range of procedural guarantees available to adults in the criminal process and, in certain instances, due to their special needs, may be vested with procedural rights which are superior to those possessed by adults.

1107. Incarceration is regarded as a sanction of last resort under the *Young Offenders Act* and the *Provincial Offences Procedure for Young Persons Act*, both of which stipulate that young persons enjoy rights, including a right to the least possible interference with freedom that is consistent with the protection of society, having regard to the needs of young persons and the interests of their families. Consistent with this principle, Youth Courts, acting pursuant to the *Young Offenders Act* are empowered to order a wide range of dispositions.

2. Article 37 (b), (c), (d): children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings

Department of the Solicitor-General

1108. As already mentioned, Youth Courts pursuant to both federal and provincial law are directed to regard incarceration as a sanction of last resort. The Department of the Solicitor-General complies with these constitutional rights in its legislation and administrative dealings with youthful offenders. The Department ensures the separate institutionalization of youthful and adult offenders through its adherence to the federal *Young Offenders Act*. Separate institutionalization of adult and young offenders is also ensured by the *Provincial Offences Procedure for Young Persons Act*.

1109. Regular contact with the external world through visits and correspondence is guaranteed by the *Custody and Detention of Young Persons Act* and its regulation as well as by internal policies and procedures.

3. Article 37 (a): sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment

Department of the Solicitor-General

1110. Departmental policies concerning the treatment of youthful offenders comply with the provisions of the *Young Offenders Act* governing the disposition of children convicted of criminal offences, including use of alternative measures, resort to custodial sanctions as a last resort and periodic review of placement in custody. The maximum sentence which may be imposed under the *Provincial Offences Procedure for Young Persons Act* is six months' imprisonment or a fine of not more than 1,000 dollars. Placement in custodial facilities is subject to periodic review. Regulation 92-71 enacted pursuant to the *Custody and Detention of Young Persons Act*, which determines the conditions of custody of the institutionalized young offenders also proscribes the use of torture and prohibits the infliction of cruel, degrading or inhuman treatment.

4. Article 39: physical and psychological recovery and social reintegration

Department of Health and Community Services

1111. The intent of the *Family Services Act* is to promote physical and psychological recovery of abused children through family integration or reintegration. The focus of the Act with regards to "social reintegration" is the family unit.

Department of the Solicitor-General

1112. Through its participation in the administration of Child Abuse Protocols and through special treatment programmes (enumerated in the Departmental response relating to art. 4) which are directed at child victims of crime, child victims of family violence and youthful offenders, the Department plays a role in the physical and psychological recovery and social reintegration of child victims of abuse and exploitation.

G. Children in situations of exploitation

1. Article 32: economic exploitation, including child labour

Department of Advanced Education and Labour, Employment Standards Branch

1113. Protection from economic exploitation as defined under this article is ensured by the *Employment Standards Act*.

2. Article 33: drug abuse

Department of Health and Community Services

1114. The responsibility for adequate care and control of children is the responsibility of parents. If they are found unable or unwilling to fulfil this responsibility, the State will step in to offer protective measures for the child.

Department of the Solicitor-General

1115. Municipal police forces and the RCMP participated in PACE (Police Assisting Community Education), a province-wide educational programme aimed at grades 5 to 9 which involves periodic school visits, exhibition of video materials and distribution of literature by local police and RCMP to explain drug laws, educate children in relation to drug abuse, prevent such abuse and develop alternate strategies.

1116. Through their participation in the National Drug Strategy, municipal police forces and the RCMP are actively involved in crime prevention programmes (such as Crime Stoppers) and assist in Drug Awareness through school visits and Huggy Bear Programme (Hugs Not Drugs). Programmes directed at youthful offenders administered by the Department of the Solicitor-General include drug and alcohol counselling and treatment. For a more detailed description, please refer to the Departmental response relating to article 4.

3. Article 34: sexual exploitation and sexual abuse

Department of Health and Community Services

1117. The *Family Services Act* prescribes certain measures to protect children from exploitation. Guidelines for Protecting Child Victims of Abuse and Neglect provide for joint investigations by police and social workers and for appropriate follow-up.

Department of the Solicitor-General

1118. Members of police forces are obligated to report suspected child abuse and neglect (including sexual exploitation), as stipulated in the *Family Services Act*. The Department plays a role in the protection of children against all forms of sexual exploitation and abuse through its enforcement of *Provincial Guidelines for Protecting Child Victims of Abuse and Neglect*. The Department has internal institutional policies which recognize the right of institutionalized youth to be secure against sexual abuse while confined and which provide a mechanism for reporting and disposing of allegations of sexual abuse.

4. Article 36: other forms of exploitation

Department of Health and Community Services

1119. The intent of the *Family Services Act* is to protect against all forms of exploitation.

5. Article 35: sale, trafficking and abduction

Department of the Solicitor-General

1120. The Department participates in the Ident a Kid Programme in conjunction with community agencies and is involved in the development of interdepartmental protocols pursuant to the *Convention on the Civil Aspects of International Child Abduction*.

H. Children belonging to a minority or other indigenous group

Article 30

Department of the Solicitor-General

1121. The policies of the Department of the Solicitor-General governing the treatment of youthful offenders respect the linguistic and cultural heritage of children. Programmes are offered in both official languages. Regulation 92-71 enacted pursuant to the *Custody and Detention of Young Persons Act* ensures respect for the religious views of the child. Through contract with the Department of Health and Community Services, the Department of the Solicitor-General also administers an open custody group home for aboriginal offenders. The Department also employs two native probation officers, one of whom is employed exclusively in providing on-reserve probation services for both adult and young offenders. The Department is developing further programmes specifically for adult and young native offenders.

IX. NOVA SCOTIA

A. Definition of a child under the laws and regulations

1122. The *Children and Family Services Act* defines a child as a person under the age of 16 years. The *Age of Majority Act* states that the age of majority in the province of Nova Scotia is 19 years. Regulations made pursuant to the *Education Act* provide for compulsory education to all children 16 years of age and under. The *Education Act* also provides for free public education up to the age of 21. The *Labour Standards Code* provides for the age at which children may be employed.

1123. The *Solemnization of Marriage Act* now recognizes 19 as the marriageable age. A person under 19 but over the age of 16 may marry with parental consent. Marriages under the age of 16 shall not be solemnized without special application to a judge of the Family Court who must make a determination that it is expedient and in the interests of the parties to authorize solemnization of the marriage.

1124. The *Liquor Control Act* prohibits the sale, supply or procurement of liquor for or by any person under the age of 19 years. A person who knowingly sells or supplies liquor to any person under the age of 19 shall for the first offence be imprisoned for not less that one month or more than three months and for the second and subsequent offences, for not less than four months or more than one year.

1125. The *Youth Secretariat Act* establishes the Secretariat as a focal point for the development of effective responses by Nova Scotia to the needs and aspirations of the province's youths. The Youth Secretariat, which defines "youth" as between 15 and 24 years, has an important mandate to include youths in making decisions which affect their population.

B. General principles

1126. The *Nova Scotia Human Rights Act* underwent major revisions in 1991 which had the effect of providing additional protection to children and their families. Family status, defined as being in a "parent-child relationship" was added as a new characteristic under which discrimination was prohibited and the protection from discrimination on the basis of marital status was expanded to apply to all facets of public life. The prohibition of discrimination on the basis of age was expanded to include all ages. The Act however provides for exceptions allowing youths to be conferred a benefit or provided a protection with respect to services or facilities.

1127. The *Children and Family Services Act*, which came into force in September 1991, replaced the existing Children's Services Act. The new legislation provides clearer rules and states unambiguously that wherever possible family units are to remain together, assisted by a wide range of supports. It provides in several of its sections, a requirement that the best interest of the child be considered in decisions affecting children. Some of the following circumstances are listed in the Act as relevant to the best interest of the child: importance for the child's development of a positive relationship with a parent and a secure place as a member of a family; the importance of continuity in the child's care and the possible effect on the child of the disruption of that continuity; the bonding that exists between the child and the child's parent; the child's physical, mental and emotional level of development; the child's cultural, racial, religious and linguistic background; the child's views and wishes if they can be reasonably ascertained and the risk that the child may suffer harm through being removed from, kept away from, returned to or allowed to remain in the care of a parent.

1128. The *Children and Family Services Act* provides for the right of a child over the age of 16 to be a party to a proceeding with respect to the determination as to whether a child is in need of protection. The Act also provides for the court to order that a child 12 years of age or more be a party to such proceedings.

1129. The *Children and Family Services Act*, provides that in situations where the person proposed to be adopted is 12 years of age of more, written consent of the child must be obtained.

C. Civil rights and freedoms

1130. The *Vital Statistics Act* provides for a child to be registered with the surname of either the mother or father. Births may be registered in a script or alphabet different from the Roman (English) alphabet used in Nova Scotia.

1131. In situations where a child of Aboriginal origin is the subject of a proceeding with respect to protective intervention, the *Children and Family Services Act* allows for the Mi'kmaq Family and Children's Services of Nova Scotia, at any stage of the proceeding, to be substituted as a party for the agency that commenced the hearing.

1132. The *Freedom of Information Act* applies to all Nova Scotians, regardless of age. The Act proclaimed in 1990 has as its purpose to ensure that the Government of Nova Scotia is fully accountable. It provides for the

disclosure of all Government information in order to facilitate informed public participation in policy formulation and ensures fairness in Government decision-making. The Act also provides for an independent review of decisions on the disclosure of Government information and protects the privacy of individuals with respect to information about themselves held by Government and provides these individuals with a right of access to this information.

D. Family environment and alternative care

1133. The *Family Maintenance Act* provides for the payment of maintenance for dependent children and spouses where there is reasonable need for the assistance. The *Family Orders Information Release Act* provides for the enforcement of court orders respecting children and support obligations by providing for the release of information which may assist in locating children, defaulting spouses of other persons. Under the *Testators Family Maintenance Act*, there is authority for a judge to order adequate provision for the maintenance and support for dependents and children where the testator dies without having such adequate provision in his will. The *Maintenance Orders Enforcement Act* provides for the reciprocal enforcement of maintenance where the respondent is not complying with an order of the court to provide maintenance for a child.

1134. In Nova Scotia, there were 347 adoptions during the fiscal year 1990/91. Out of the 241 private adoptions, the child was placed with relatives in 210 cases. Other children were placed by Children's Aid Societies, Children and Family Services and other child caring institutions.

1135. Linguistic, cultural and racial heritage as well as religious faith must be given due regard in determining the best interest of the child placed under temporary or permanent care and custody or adoption. Most agencies placing children for adoption will consider the child's background and the wishes of the biological parent.

E. Basic health and welfare

1136. The province of Nova Scotia presently operates under a two-tier social assistance system. The *Family Benefits Act* has as its purpose the provision of assistance to persons or families in need where the cause of the need has become or is likely to be of a prolonged nature. Approximately 51 per cent of the recipients of this assistance are adults with disabilities which will prevent them from being employed for at least one year and less than 1 per cent are senior citizens. Single parents make up 42 per cent of the recipients, parents with disabilities make up 6 per cent and 1 per cent are foster parents. In the fall of 1992, there were 12,279 female single parents and 279 single male recipients of Family Benefits (approximately 26,000 children). All applicants except foster parents must qualify on the basis of need - that is they must have insufficient income for their basic needs, based on figures set by the Nova Scotia Department of Community Services. Family benefits is assistance of a last resort, that is, applicants must demonstrate that they are not eligible for any other form of support such as from a spouse, unemployment insurance, etc.

1137. People who do not fall in one of the categories for family benefits must apply for Municipal Social Assistance which assists people whose need is of a

shorter term. The rates established for municipal assistance are lower than family benefits and vary from one municipality to the other.

1138. The Atlantic Provinces Special Education Authority (APSEA) is an interprovincial cooperative agency which provides educational services, programmes, and opportunities for persons under the age of 21 who have low incidence handicaps, visual or hearing impairments or severe learning disabilities. Programmes and services offered by APSEA are designed to support school districts in their service to children with disabilities. The agency continues to extend its service delivery to include a variety of educational settings and support for pupils who can be successfully integrated or partially integrated into the public school system. Programmes and services for students with hearing impairments, visual impairments or a learning disability are offered through three centres of specialization.

1139. The province, through its Department of Health, provides for free medical care through its Medical Services programme. The department also operates a dental programme which provides both preventative and curative treatment without cost to children under the age of 16.

1140. The Maternal and Child Health Care Programme is the primary prevention programme of the Nova Scotia Department of Health and Fitness. This programme includes prenatal education in the homes and in clinics, post-natal and infant home visiting and health assessment and supervision throughout the province of Nova Scotia. Parents of all newborn children receive a pamphlet on proper nutrition care for young babies.

1141. The Department of Community Services, in March 1990, provided a salary enhancement grant to day-care workers employed in non-profit day-care centres. This grant, which improves the salary for day-care workers by up to $5,000, was phased in over a two-year period.

1142. The Round Table on Day Care was created in April 1990. The 13-member Round Table, represented by members of the day-care community, through its committees on training and certification, legislation, salaries and subsidized spaces and family care, submitted a report in April 1991.

1143. As a result of revised criteria, more families, including low-income as well as middle-income, now qualify for subsidized day-care. The province in the fiscal year 1992/93 provided an additional 1 million dollars to further enhance the day-care programme. One hundred new subsidized spaces were created, a special subsidy rate for infants was implemented and infant care standards were created. Additional training grants were provided to staff who wished to upgrade their education in early childhood education. The Round Table has been re-established for the purposes of overseeing the implementation of the recommendations and had been expanded to include parent and staff representation. At present there are 374 day-care facilities in the province which provide 10,700 licensed spaces for children. Of these, 2,100 are subsidized spaces.

1144. The *Day Care Act* provides for the licensing of day-care facilities. The Act also provides for regulations to be made with respect to the conditions, including number of children in a facility and child-staff ratios as well as

regulations requiring and prescribing standards of programmes, services, health, space, fire protection and safety in or for the facility.

1145. As of December 1989, female provincial civil servants who are eligible to receive maternity benefits under the federal Unemployment Insurance Act are now paid an allowance through the Supplementary Unemployment Benefits (SUB) Plan while on maternity leave.

F. Education, leisure and cultural activities

1146. The *Education Act* provides for mandatory education for persons under the age of 16 and provides free public education for children over the age of 5 and under the age of 21.

1147. The provincial department announced in October 1992 the revisions of the core programme to be taught to all students in the province of Nova Scotia as of September 1993. This core was the result of much deliberation by many groups and individuals, including educators and members of the public. The core programme was designed to provide students with an education which prepares them to live, work and compete successfully in a rapidly changing world. The core will provide students with the essentials for excellence in developing communication skills; understanding and applying mathematical patterns, relationships and concepts; developing problem-solving strategies; using technology to solve problems; developing self-esteem and respect for others and developing reflective and imaginative thinking.

1148. At the request of the Department of Education, a committee was formed to review the Daily Activity Programme in the public schools of Nova Scotia which had been endorsed by the Minister of Education in 1984. In 1989, the Nova Scotia Royal Commission on Health Care had identified the need for promoting a healthy lifestyle. Some of the findings of the Royal Commission were that the percentage of Nova Scotia children who were overweight was above the national average and that the health risk behaviours of children showed that a higher proportion of children under 15 smoke, drink, use drugs and are obese. The recommendation of the committee was that the Daily Physical Activity programme be reintroduced around an active living concept that encompasses a variety of physical activities incorporated into one's daily routine and habits rather than intense physical activity.

1149. Under the *Education Act*, no person shall employ in any work during school hours a child under the age of 16 unless the child is granted an employment certificate.

1150. Home schooling may be approved by the Inspector of Schools.

1151. Achievement tests given to high-school students were reviewed by professionals experienced in multiculturalism and race relations to guard against racial bias.

1152. The Select Committee on Education was established by the House of Assembly to consult Nova Scotians on a wide range of educational matters. It submitted a report to the provincial Government on 31 March, 1992. The Government accepted the recommendations of the Select Committee. As a result, the following steps were taken:

(a) In January, 1993, the Department of Education released its Report of the Education Funding Review Work Group. Its mandate was to place recommendations regarding funding formulas for district school boards. One of the principles accepted by the department as a guide to funding review was the principle of equity, both horizontally and vertically. Equity in horizontal access means that the quality and availability of core programming in each community should be equivalent. Equity of vertical access means that children with different needs should be afforded different approaches to programming and service delivery;

(b) An Office of Race Relations and Cross-Cultural Understanding has been created in the Department of Education. This office is working with school boards, multicultural groups and other education partners in developing anti-racist principles and a provincial race relations policy. As well, the office is working with school boards to develop race relations policies at the board level;

(c) A discussion paper and work plan on race relations will be released in June 1993. The anti-racist principles will reinforce the individual's right to an education free from bias, prejudice and intolerance. The race relations policy will include school programmes and practices promoting self-esteem and pride in individual cultures and heritages;

(d) School Advisory Councils which will provide for parental involvement can be created in addition to school boards and Home and School Associations.

1153. The *Vocational, Trades, Technical and Technological Training Act* provides for 18 community colleges. All community colleges provide post-secondary instruction and education to qualified students at minimal fee.

1154. The *Provincial Parks Act* provides opportunities for exploration, understanding and appreciation of Nova Scotia's natural and cultural heritage through interpretation, information and educational programmes. The parks are open to everyone free of charge. Several have had facilities installed to make them accessible to persons with mobility restrictions.

G. Special protection measures

1155. The *Corrections Act* provides for the safe custody and security and rehabilitation of offenders and for the integration of offenders into the community while at the same time providing adequate safeguards for the public. Regulations under this Act provide that all persons deprived of their liberty shall be treated with respect for human dignity.

1156. The administration of the *Young Offenders Act* (which is federal legislation) is the responsibility of the provinces. Under this Act, young offenders are segregated from adults and treated appropriately to their age and legal status. In Nova Scotia, young offenders aged 12 to 16 are dealt with through the Department of Community Services while 16 and 17 year-old offenders are dealt with through the Department of the Attorney General.

1157. The *Young Persons Summary Proceedings Act* establishes the procedures for dealing with juvenile offenders aged 12 to 17 who break provincial and

municipal laws. It provides for warnings, charges, or an alternative measures programme similar to the alternative measures programme under the *Young Offenders Act*. Alternative measures include rendering community service, writing letters of apology to the victims and researching and writing articles on crime and punishment.

1158. The Department of Health, through its Drug Dependency Services Division, operate a specialized drug dependency service for adolescents who are harmfully involved with alcohol or other drugs. The Choices programme is offered for youth aged 13 to 19 and their families. It offers a broad-based treatment approach which includes group, individual and family therapy, skill development, education, self-help, life-skills and leisure and recreational activities. The programme services include the following: assessment; outpatient and inpatient programme; day programme; support group; one-day workshops; parent information programme and other short intensive training programmes.

1159. The *Labour Standards Code* stipulates that children under the age of 14 may not work for more than eight hours in any day or for more than three hours on any school day unless the child has an employment certificate under the *Education Act*. Children under 14 cannot work after 10 p.m. and prior to 6 a.m. nor can they be employed to do work that is or is likely to be unwholesome or harmful to his or her health or development or interfere with school attendance. Children under 16 cannot be employed in an industrial undertaking, forest industry, garages and automobile service stations, hotels and restaurants, theatres, dance halls, shooting galleries, bowling alleys, billiard and pool rooms or in the operation of elevators. The total hours of combined school attendance and employment cannot exceed eight hours in any one day.

1160. The *Labour Standards Code* allows parents to employ their children, whether they are under the age of 16 or not, in the family business. The responsibility of ensuring that children do not work in contravention of the Code lies with the parents who are subject to a fine if they knew the child was employed.

1161. The *Child Abduction Act* provides for the enforcement of the *Convention on the Civil Aspects of International Child Abduction* through the Department of the Attorney General.

1162. The Working Group on Youth Exploited for the Sex Trade released its report on 19 January, 1993. The Province acted immediately on one of its recommendations by establishing the Department of Community Services as the lead department with respect to implementation of the recommendations.

1163. In January 1993, the Youth Secretariat released a report entitled "Youth in the 90s" which attempts to consolidate research and opinion on youth issues into a single document in order to provide focus on the wide-ranging pressures, concerns and opportunities facing our youth population. It is hoped that the publication of "Youth in the 90s" will facilitate access to important information by youth, youth serving organizations and Government agencies.

1164. The Select Committee identified a lack of Aboriginal role models and a high drop-out rate among aboriginal students in Nova Scotia. A Mi'kmaq education consultant has been hired to work with the multicultural coordinator and race relations consultant. The Mi'kmaq education consultant will work with the Mi'kmaq community to develop a course on Mi'kmaq history and culture. A pilot course, open to all students, will be available in schools in districts where sufficient numbers of Mi'kmaq children live.

1165. In May 1992, the *Education Act* was amended so that eligible students are assured of their rights under section 23 of the *Canadian Charter of Rights and Freedoms*. In Nova Scotia, parents of entitled children have the right to have their children receive French-language instruction. There are now 18 schools in the province which offer French-language instruction. In addition, the Act provides for *conseils d'école* to be responsible for the operation and management of francophone educational facilities. There is one *conseil d'école* operating in Nova Scotia.

X. NEWFOUNDLAND

A. General measures of implementation

1166. In attempting to harmonize its law and policy with the Convention, this jurisdiction has reviewed its legislation to ensure that it contains nothing that is contrary to the Convention. Furthermore, no new legislative measures in contravention of the Convention have been approved. There will be an attempt to monitor on an ongoing basis the implementation of the Convention.

1167. Pursuant to article 42 of the Convention, in an attempt to make the provisions of the Convention widely known, the Human Rights Commission is making a continuing effort to increase awareness of all human rights including those in the *Convention on the Rights of the Child*. Further, the Department of Health has distributed copies of the Convention to all persons and groups who provide health services to children.

B. Definition of the child

1168. Various Acts of the Province give their own definition of a child for the purposes of those acts. If an Act merely refers to the attainment of majority, the *Minors (Attainment of Majority) Act*, which stipulates the age of majority to be 19 years, is operative. The following Acts contain age requirements pertaining to children: *The Adoption of Children Act, 1972*, defines a child as a person under the age of 19; *The Certified Public Accountant Act* stipulates that a person over 19 may be examined and have membership as a Certified Public Accountant; *The Change of Name Act*, that a name change for a person over 12 can only be done with the consent of that person; *The Children's Law Act*, that a child of 16 can withdraw from parental control and that a child's property in the care of a guardian must be transferred to the child at age 19; *The Child Welfare Act*, that a child is an unmarried boy or girl actually or apparently under the age of 16; *The Election Act*, that one must be 18 years old to vote; *The Highway Traffic Act*, that a person can obtain a car licence at age 17 and a motorcycle licence at age 16; *The Jury Act*, that jury duty is allowed at the age of majority, i.e. age 19; *The Labour Standards Act*, that persons under 14 years are allowed to work at certain prescribed occupations and that in the case of persons under 16,

restrictions apply to type of occupations and circumstances surrounding the employment; *The Land Surveyors Act*, that one cannot practice as a land surveyor unless 19 years of age; *The Law Society Act, 1977*, that one may be admitted as a student if 19 or over; *The Life Insurance Act*, that a 16-year-old can contract as if 19 years of age and that an 18-year-old beneficiary has capacity to receive insurance money and to discharge of such as if 19 years of age; *The Limitations of Actions (Personal) and Guarantees Act*, that one must be 19 to bring an action; *The Liquor Control Act, 1973*, that one must be 19 to get a liquor licence and to purchase liquor; *The Pharmaceutical Association Act*, that one must be 19 to register as a candidate; *The Private Investigators and Security Services Act, 1981*, that one must be 19 or over to hold a licence as an agent; *The School Attendance Act*, that it applies to children 6 years of age or over and under 16; *The Solemnization of Marriage Act*, that there can be no solemnization of marriage if either party is under 16, except in cases of pregnancy, that 16 to 19-year-olds can be married with parental consent, that 19-year-olds can marry without parental consent, and finally that those 18 years of age and living apart from parents, with no financial support, can marry without parental consent; *The Wills Act*, that no will is valid if made by a person under 17 years of age; *The Youth Advisory Council Act*, that its council members are between the ages of 14 and 24; *The Young Persons Offences Act*, that it applies to persons 12 and over but under 18 years of age at the time an offence is alleged to have been committed, and that no persons under 12 can be convicted; *The Rules of the Supreme Court, 1986*, that a minor (under 19) may not commence an action except by his guardian *ad litem* and that there can be no settlement of a matter for a minor without court approval.

C. General principles

1. Non-discrimination: article 2

1169. Discrimination on the basis of race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, marital status, physical disability, or mental disability is prohibited by the *Human Rights Code*. The Code applies to persons of all ages. Legislation has been recently amended to ensure that children are treated equally whether they are born in or out of wedlock. The *Children's Law Act* states that a child's status is independent of whether he or she is born inside or outside marriage and that all distinctions between the status of a child born inside or outside marriage are abolished. Maintenance Enforcement Legislation and legislation dealing with the rights of children apply to all children equally. Education is provided to all children equally with no discrimination to the disabled.

2. Best interests of the child: article 3

1170. The *Child Welfare Act* requires the court to interpret the Act according to the principle that the best interests of that child are the paramount consideration in a determination under the Act, with respect to a child in need of protection. Section 36 further reiterates that the best interests of the child is the first and paramount consideration in a proceeding before the court in which the custody or upbringing of a child is in issue. The *Adoption of Children Act* states that a judge in making an adoption order shall have

regard to the best interest of the child. The *Children's Law Act* refers throughout to the best interests of the child as being of paramount importance.

1171. The *Child Welfare Act*, the *Children's Law Act* and the *Adoption of Children Act* are aimed at providing protection for children. All take into account the rights and duties of his or her parents, legal guardians, or other persons legally responsible for the child.

1172. To ensure that institutions and services related to the care and protection of children conform to provincial standards, foster homes are licensed under the Child Welfare Regulations, set up under the authority of the *Child Welfare Act*, and day-care centres under the *Day-care and Homemakers' Act*. Health care services to children are monitored by the Provincial Department of Health as well as by various hospital boards.

3. The right to life, survival and development: article 6

1173. The *Child Welfare Act* ensures the protection of children found to be in need of protection under the Act. The *Social Assistance Act* ensures a minimum standard of living for those applying for assistance under the Act.

1174. A wide range of health services are provided. Primary prevention is delivered through public health nurses and family physicians. The immunization rate in the province is high at approximately 99 per cent. Public health provides prenatal and post-natal child health clinics for children aged 2 to 18 months and then again at 4 years of age. The service is available to all families in the province. There is a provincial tertiary care centre devoted specifically to children, as well as a provincial rehabilitation centre for children. Some community paediatricians and some regional hospitals provide paediatric services. The province is presently working on better coordination of services to children through regional child health teams.

1175. The percentage of mothers breastfeeding their infants in Newfoundland is at present the lowest in Canada, but is increasing. A provincial breastfeeding coalition is now in place and the province is continuing to promote breastfeeding. Child health clinics throughout the province are monitoring the growth. In the area of family planning, adolescent pregnancy rates have been on the decline; however, they are still a concern. Infant mortality rates are still slightly above the Canadian average; however, this is more due to environmental, social and economic factors and is not a result of lack of medical intervention.

4. Respect for the views of the child: article 12

1176. The *Child Welfare Act* provides that the court may consult the child in determining what order should be made. The Act further provides that in determining what is in the best interests of the child the court shall consider the views and preferences of the child, where those views and preferences can be reasonably ascertained. As a matter of policy a child can have his or her own legal counsel appointed if their views are different from those of the department.

1177. Pursuant to the *Adoption of Children Act*, an adoption order shall not be made without the written consent of the child proposed to be adopted where the child is 12 years of age or older and capable of giving an informed consent.

1178. The *Children's Law Act* states that a court, in considering an application for custody and access or guardianship, shall, where possible, take into consideration the views and preferences of the child to the extent that the child is able to express them. The Act further provides that, in an application for custody or visiting rights, the court, in determining the best interest of the child, shall consider all the needs and circumstances of the child including the views and preferences of the child, where the views and preferences can be reasonably ascertained.

D. Civil rights and freedoms

1. Name and nationality: article 7

1179. The *Vital Statistics Act* requires in section 6 that all births shall be registered in a public place. Pursuant to that Act, the information must be provided within 48 hours of the birth. In order to register the birth a name must be provided.

1180. As far as possible children know and are cared for by their parents. The *Child Welfare Act* and the *Adoption of Children Act* set out the circumstances and procedures to be followed when a child cannot be cared for by its parents.

2. Preservation of identity: article 8

1181. The *Change of Name Act* and the *Adoption of Children Act* give the only permissible ways in which a child's name can be changed. The Acts establish legal requirements and restrictions on changing a child's name.

3. Access to appropriate information: article 17

1182. The Department of Education provides Resource-Based Learning Centres in schools with a wide variety of print and non-print resource services. The Department purchases children's literature from a wide variety of sources and disseminates it to School Boards.

4. Freedom of thought, conscience and religion: article 14

1183. The *Child Welfare Act* regulates the refusal of appropriate medical attention, which may be refused in some cases on the basis of religious beliefs. Recent case-law has held that a child who was 15 years of age had the capacity to refuse medical treatment on the basis of his or her religious beliefs.

5. Freedom of association and of peaceful assembly: article 15

1184. There exists no provincial legislation restricting a child's right to freedom of association and peaceful assembly as guaranteed by the *Canadian Charter of Rights and Freedoms*.

6. Protection of privacy: article 16

1185. The *Privacy Act* states that it is a tort, actionable without proof of damage, for a person, wilfully and without a claim of right to violate the privacy of an individual. The Act puts reasonable limits on that right, taking into account the nature, incidence, and occasion of the act or conduct and to the relationship, whether domestic or other, between the parties.

1186. The *Freedom of Information Act* provides a right of public access to information in records of departments; it subjects that right only to specific and limited exceptions necessary for the operations of the departments and for the protection of personal privacy. The Act specifically denies access to personal information on an identifiable individual; however, it allows access to certain specified information that does not constitute a violation of that person's privacy.

1187. Health records of individuals must be kept confidential. Records kept under the *Adoptions Act* and under the *Child Welfare Act* must be kept confidential. Within the educational system, access to records kept on students is limited to certain individuals.

1188. Under the *Child Welfare Act*, apprehension of children believed to be in need of protection is provided for in the Act, which requires that either a warrant be issued by a competent court, or if apprehension takes place without a warrant, that it must be on reasonable grounds and must be brought before a court of competent jurisdiction within 15 days.

7. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment: article 37 (a)

1189. Pursuant to the *Child Welfare Act*, a child found to be in need of protection falls within the purview and thus the protection of the Act. A child in need of protection is defined in the Act as a child who is physically or sexually abused, physically or emotionally neglected, sexually exploited or in danger of being so, or one who is living in circumstances that are unfit or improper for the child. The *Schools Act* prohibits any form of corporal punishment in the schools.

E. Family environment and alternative care

1. Parental guidance: article 5

1190. The only interference with the parent's responsibilities, rights and duties comes through the *Child Welfare Act*, and that Act only comes into play when the child is not receiving adequate care or supervision and the child is found to be in need of protection under the Act. The Act is administered by the Department of Social Services, whose philosophy is that the parents are the primary care-givers and that this should not be interfered with unnecessarily.

2. Parental responsibilities: article 18, paras. 1-2

1191. The province recognizes both parents' responsibility in the upbringing and development, and maintenance of the child in the *Children's Law Act*. For

the purposes of proceedings under the *Child Welfare Act* and the *Adoption of Children Act* both parents must be given notification.

1192. As to the development of facilities for care of children who cannot be cared for in their own homes, see paragraph 1218.

1193. A variety of support services is offered to qualifying parents, who are having difficulty in their children's upbringing, through the Department of Social Services. These services include such things as counselling, homemaker services to help out in the home in many basic areas, babysitting service, day care, financial counselling, teaching of parenting skills, respite services and in-home services particularly for children with physical and mental disabilities.

1194. The Department of Health offers a variety of programmes aimed at helping parents cope with their child-rearing responsibilities. Childbirth education programmes and parenting programmes targeting children from birth through to adolescence are presently in place. Parenting programmes are a departmental priority. The department also tracks families at risk through public health nursing and offers care if there are problems in the area of child development or poor parenting practices.

3. Separation from parents: article 9

1195. The *Child Welfare Act* sets out the circumstances under which a child can be removed from his or her parents' care. Actions of child welfare authorities are, pursuant to the Act, subject to judicial scrutiny and are to be based on the best interests of the child.

1196. Under the *Child Welfare Act* the judge may hear the views of any interested party on the best interests of the child. In custody applications under the *Children's Law Act*, again the Court may hear all interested parties in determining the order that is in the best interests of the child.

1197. In matters falling under the ambit of the *Child Welfare Act*, contact with parents will be maintained unless such contact is not in the best interests of the child. If a child who is in the care of the Director of Child Welfare is to be placed for adoption pursuant to the provisions of the *Adoptions of Children Act*, then contact with his or her parents will not be maintained. In matters falling within the *Children's Law Act*, visits with the non-custodial parent would only be denied if such denial was in the best interests of the child.

4. Recovery of maintenance for the child: article 27, paragraph 4

1198. The *Support Orders Enforcement Act* creates a support orders enforcement office charged with the enforcement of support orders for the benefit of the creditor or the creditor's child. The *Reciprocal Enforcement of Support Orders Act* provides that where laws are or will be in effect in a state for the reciprocal enforcement of orders made in the province, on a basis substantially similar to the Act, it may be declared that state is a reciprocating jurisdiction. Orders of reciprocating states may be registered and enforced in the province.

5. Children deprived of a family environment: article 20

1199. A child who is found to be in need of protection pursuant to the provisions of the *Child Welfare Act* is placed in licensed foster care and all expenses of that child are paid for by the province. The Act guarantees that the best interests of the child are considered in any order made for that child.

1200. The province provides foster care for all children removed from the care of their parents. All foster care must be licensed pursuant to the Child Welfare Regulations.

1201. The *Child Welfare Act* states that in determining the best interests of the child under the Act, the Court shall consider the effect upon the child of the child's sense of continuity, the child's cultural and religious heritage, the necessity for the appropriate care or treatment or both for the mental, emotional and physical health of the child, and the right of a child to an environment to stimulate and encourage his or her development.

6. Adoption: article 21

1202. The *Adoption of Children Act* is the governing legislation for all adoptions that occur in the province. Pursuant to the Act, an adoption order can only be made where the judge is satisfied of the ability of the applicant to fulfil the obligations and perform the duties of a parent towards the child and of the propriety of the adoption having regard to the best interests of the child. The Act requires the consent of every parent whose name appears on the record of birth of the child in the jurisdiction in which the child was born, as well as the consent of the person who has been declared to be parent of that child by a court or who has an order for custody of, or access to, the child to be adopted. If the party consenting to the adoption of their child is uncertain of his or her decision, counselling will be provided and the person may be sent for independent legal advice.

1203. Intercountry adoptions are recognized as an alternate means of care. Couples bringing children for adoption from another country must meet the standards set out in the *Adoption of Children Act*.

1204. The Act prohibits the giving or receiving of financial gain in consideration of the adoption of a child or to obtain a child for the purpose of adoption.

1205. The province supports the *Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption*.

7. Illicit transfer and non-return: article 11

1206. The *Hague Convention on the Civil Aspects of International Child Abduction* is in force in the province. Application to the Court in pursuance of a right or obligation under the Convention may be made under the *Children's Law Act*.

8. Abuse and neglect, including physical and psychological recovery and social reintegration: articles 19 and 39

1207. The *Child Welfare Act* defines in detail (C.12 section 2 (b)) a child in need of protection. The definition includes, among other conditions, a child without adequate care or supervision, food, clothing or shelter; a child in unfit conditions or in the custody of an unfit person; a child who is physically, emotionally or sexually abused or in danger of being so abused; a child who has no living parents or person willing to assume responsibility for the child.

1208. Any child who falls within the ambit of that definition and is declared by a court of competent jurisdiction to be a child in need of protection is entitled to the protections offered by the Act.

1209. Further, section 38 of the Act requires that any person who has information that a child is in danger ill-treatment or otherwise in need of protection shall immediately report the matter to competent authorities. This applies to persons who obtain such information in the course of their professional duties (e.g. health professionals, teachers, clergy, social workers).

1210. The Department of Social Services offers a variety of services and social programmes aimed at providing support for the child and those who have the care of the child. Parenting programmes are aimed at teaching parents basic parenting skills, including alternate forms of discipline to replace corporal punishment. Counselling for parents and children is provided when thought to be necessary, but especially when working towards reunification of a family. A variety of social programmes is offered through public health and various community organizations.

1211. The Department of Social Services investigates all reported incidents of children who may be in need of protection. The *Child Welfare Act* allows a social worker, the Director of Child Welfare, a person authorized by the Director or a peace officer to apprehend a child whom they believe on reasonable grounds to be in need of protection. There is also provision in the Act to apply to a court for a warrant to apprehend. Once an apprehension takes place under the Act, the matter must be brought before a court of competent jurisdiction. Foster homes and daycare centres entrusted with the care of children are visited regularly by the Department of Social Services and are inspected regularly.

1212. A variety of programmes is available for victims of abuse offered through the Department as well as in the community. Schools offer preventative programmes for all children.

9. Periodic review of placement: article 25

1213. Children who have been the victims of abuse in their homes and remain in or are returned to their homes are monitored very closely by the Department. The *Child Welfare Act* requires a review by the courts at least every 12 months of children placed temporarily in the care of the Director. Children who are in the permanent care of the Director are visited every 6 months by a social worker and foster homes are assessed and reported on every 12 months.

F. Basic health and welfare

1. Survival and development: article 6, paragraph 2

1214. The Department of Health has a provincial consultant for parent and child health who, among other things, is responsible for ensuring proper programming for parents and children. There is also within the Department a series of provincial advisory and interdepartmental committees that monitor statistics and implement policy and legislation. The wide variety of programmes designed to ensure proper health and development will be enumerated later in this report.

2. Disabled children: article 23

1215. The province, through a variety of programmes and policies, recognizes that physically and mentally disabled children should enjoy a full and decent life in conditions that ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

1216. The Department of Social Services provides a special child welfare allowance to allow special services to disabled children in their own home. The allowance will pay for any needed medical or rehabilitative care and for respite care when deemed necessary. The Department will also pay for renovations to the home made necessary by reason of the disability.

1217. The enunciated aims of education recognize that disabled children should participate fully as members of the school and the community. Children with disabilities are guaranteed full access to the school system and are provided special resources to make their involvement meaningful and worthwhile. Section 10 of the Teacher Staffing Regulations (1987) allocate teachers for hearing impaired, visually impaired, mentally handicapped and physically disabled. Student assistants are provided in the school for personal care and to assist in access to the educational programme. The system is based on the principle of meaningful full inclusion, which is the right to be included in all activities within the school. The educational programme is based on each child's individual goals. The children are in the classroom full time and are only removed for compelling reasons. Those with physical disabilities are provided with Vocational Rehabilitation Training. Also available is a system of cooperative education, which involves in-school and on-the-job components. Furthermore, a work experience programme, geared specifically to children with learning difficulties, aids in the development of employment skills. Children are given an opportunity to visit job sites which helps them in making career choices and often helps secure employment.

1218. Disabled children who cannot be cared for in their own homes are placed in either foster homes or group homes. All care for disabled children has been de-institutionalized. The Department of Health provides direct nursing care in schools and also provides for teaching and supervising of student assistants in schools and to parents at home. Child Health Coordinators provide a link between school, services and home.

1219. Exchange of appropriate information is achieved through publication of information through newsletters and articles on a regional, provincial

and national level. The province houses the World Centre for Nutrition and is world renowned for its research in genetics.

3. Health and health services: article 24

1220. All children have access to health care services and facilities for treatment of illness and rehabilitation of health. These services are provided free of charge to all.

1221. The province has attempted to diminish infant and child mortality through better access to medical care, improved primary health services, increased technology and medical care, a better knowledge of nutrition and greater control of infectious diseases. The provincial perinatal programme is specifically geared to reducing infant mortality and ensuring an optimal outcome of pregnancy, especially for infants at risk. The programme operates a follow-up clinic for infants up to 3 years of age who are judged to be at risk. This programme liaises closely with the Community Health Nursing staff who provide the follow up and continuity at age 3 when they are discharged from the programme.

1222. Through the public health system, infants from birth to 18 months are monitored closely for health and growth development. At school age, they are again checked to ensure proper development.

1223. Adequate environmental controls are in place to ensure clean drinking water for all. Disease is combatted through, among other things, proper immunization programmes.

1224. Early prenatal care by physicians is promoted in the province and child-birth education classes are provided free of charge. Public health nurses are in contact with all mothers in the post-natal period. Parents and their new infants are visited at home by the public health nurse and group sessions are provided for parents having difficulty coping.

1225. Proper hygiene is promoted through the environmental health division of the Department of Health through monitoring of health standards and education to the public.

1226. Both schools and hospitals are involved in promoting accident prevention primarily through education. The leading cause of death and hospitalization in the province is as a result of injuries caused by accidents. To address this problem there is a provincial childhood injury programme whose purpose is to review injury data, establish priorities issues and develop strategies to decrease injuries.

1227. A full range of preventative health care services is available through Public Health. The school health curriculum has also been revised for primary, elementary and junior high levels with current information on preventative health care. Guidance for parents and family education and services are available through the Department and through various community organizations.

1228. Traditional practices prejudicial to the health of the child are not permitted.

1229. The province is an active participant on national committees dealing with a variety of the rights enunciated in this article.

4. Social security and child care services and facilities: articles 26 and 18, paragraph 3

1230. Social Assistance is provided on application, subject to a needs test. The *Social Assistance Act* and Regulations made thereunder specify who qualifies for assistance and the amounts they will receive. Such amounts take into account the resources and circumstances and varies according to the number of dependent children.

1231. The need for child-care services is recognized and the *Daycare and Homemakers Act* and Regulations thereunder regulate the standards of day-care. The quantity of day-care services does not meet the need, and there is no licensed day-care for children under 2 years of age. Both these problems are currently under review.

5. Standard of living: article 27, paragraphs 1-3

1232. The recognition of the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development is evident in the number and variety of services available to children and their parents throughout the province. There is always room for improvement; however, there is no question of the recognition of, and respect for, that right.

1233. The parents of the child are the persons primarily responsible for the conditions of living necessary for the child's development. This is in evidence in the various pieces of legislation which require parents living separate and apart to support their children financially. Further, under the *Child Welfare Act* when a child is taken into care under the Act, the department may look to the parents for financial contributions if the parents have the means to provide them.

1234. For parents who cannot provide an adequate standard of living for their children, Social Assistance is provided, on the basis of a needs test, and ensures a regular income as well as emergency funding when required. Emergency funding can include payment of rent or a special allowance for food, clothing or payment of electricity bills. Low-rent housing can also be provided to those who qualify. Some of the schools in the province presently offer a school lunch and breakfast programme, ensuring a hot nutritious lunch and breakfast for children. This programme is expanding throughout the province. There is a prenatal allowance for infant formula and for prenatal and postnatal nutrition to social assistance recipients. The province is working towards the implementation of a fluoride mouth-rinse programme as a means of improving dental care.

G. Education, leisure and cultural activities

1. Education, including vocational training and guidance: article 28

1235. Primary, elementary and secondary education are compulsory under the *Schools Act*, which requires that children attend school starting the September

after their sixth birthday until age 16. Primary, elementary and secondary education are available to all free of charge. Secondary education is available to every child and is provided free of charge. A variety of curricula are available, allowing children to chose an education that is of a more general nature rather than a purely academic one. Higher or post-secondary education is available to all and is made more accessible by the National Student Loan Programme and as well by a variety of scholarship programmes.

1236. Educational and vocational information and guidance are available to all through the provision of guidance programmes free of charge in elementary and secondary schools. A comprehensive career education programme for use in classes from kindergarten to grade 12 is presently being developed in the province.

1237. The *Schools Act* makes attendance at school mandatory to the age of 16. The province has also instituted stay-in-school initiatives that provide support services for students at risk of dropping out of school. These support services include such things as peer tutoring, counselling and mentoring.

1238. Corporal punishment is not permitted in any school in the province. Discipline in the form of suspension or expulsion is monitored through guidelines in the *Schools Act*. The Act requires that School Boards must have a by-law on suspension and expulsion and that by-law must be approved by the Department of Education. Further the *Schools Act* requires that any form of discipline administered must be done in a reasonable manner.

2. Aims of education: article 29

1239. Education in the province is defined as the process by which human beings are enabled to achieve their fullest and best development both as private individuals and as members of human society. Hence, education is geared to the development of the child's personality, talents, and mental and physical abilities to their fullest potential.

1240. As to the development of respect for human rights and fundamental freedoms, among the stated goals of education in the province are developing knowledge, understanding, and appreciation of the children's human heritage, the desire to make a positive contribution to that heritage, and the development of a lively sense of the children's rights and responsibilities as citizens, based on an understanding and appreciation of the various organizations and institutions of the community (i.e. municipal, provincial, national and international institutions).

1241. In accordance with article 29 (1) (c), education explicitly aims to help pupils obtain moral values and mental and emotional maturity required to live in harmony with their families, their communities and with others.

1242. Respect for the natural environment is taught throughout the secondary school curriculum. However, an environmental education course offered in the secondary curriculum particularly emphasizes the development of respect for the natural environment.

3. Leisure, recreational and cultural activities: article 31

1243. Schools in the province recognize the right of a child to rest and leisure. The enunciated aims of education in the province are: (1) that children learn to occupy their leisure hours in keeping with their personal interests and capacities, and in a manner which is consistent with their moral and social duties and other attributes; and (2) that pupils be able to make the best of their leisure time. All schools provide a break from work for a recess period and also provide a lunch break, generally for one hour. All schools have a comprehensive physical education programme and an art programme, both of which are compulsory in primary and elementary grades. In addition, schools provide extra-curricular programmes, visits to schools by theatre groups and a visiting artist programme, ensuring opportunities for well-rounded recreational and leisure activities.

1244. A variety of community-based organizations focus on recreation and leisure. These include Boys and Girls Clubs, Boy Scouts and Girl Guides Organizations, the Junior Forest Wardens and the YM-YWCA. The province has a well-developed minor sports network that is available to all children. Communities throughout the province offer a municipal recreation programme that includes swimming lessons, playground programmes, various organized and recreational sports, summer day camps, arts and crafts, and special events programmes. Privately operated recreational activities are available in some communities, but due to their high costs they tend to be used mostly by middle- and higher-income families.

H. Special protection measures

Refugee children: article 22

1245. Any refugee children entering the province would be referred to the Department of Social Services. If they are under the age of 16, they come under the purview of the *Child Welfare Act* and receive the same protection and services as any other child would receive under that Act. If they are over 16 years of age they may qualify for social assistance.

I. Children in conflict with the law

1. Administration of juvenile justice: article 40

1246. The declaration of principles in the *Young Persons Offences Act* recognize the right of every child in conflict with the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth. The aim is always to reinforce the child's respect for the human rights and fundamental freedoms of others, and to take into account the child's age, the desirability of promoting the child's reintegration and the child's assuming a constructive role in society. The principles emphasize, among other things, that any interference with the child's freedom must be limited to what is absolutely necessary for the protection of society, and always with regard to the child's best interest; that the child must be informed of his or her rights; and that the child has the right to be heard in any process affecting him or her.

1247. All rights set out in article 40, dealing with children in conflict with the penal law, are guaranteed through a combination of the provisions of the *Canadian Charter of Rights and Freedoms* and the *Young Persons Offences Act*.

1248. Under the *Young Persons Offences Act*, a person shall not be convicted of an offence in respect of an act or omission on the part of that person while under the age of 12 years.

1249. The *Young Persons Offences Act* sets out alternate measures that may be used for young persons instead of judicial proceedings. An authorized programme of alternative measures may be used where: the person who is considering whether to use those measures is satisfied that they would be appropriate, having regard to the needs of the young person and the interests of society; the young person, having been informed of the alternative measures, fully and freely consents to participate in them; the young person has, before consenting to participate in the alternative measures, been advised of the right to be represented by counsel and been given a reasonable opportunity to consult with counsel; and the young person accepts responsibility for the act or omission that he or she is alleged to have committed.

1250. Alternative measures shall not be used to deal with a young person alleged to have committed an offence where the young person denies participation or involvement in the commission of the offence or expresses a wish to have a charge dealt with by the youth court.

1251. The use of alternative measures in respect of a young person alleged to have committed an offence is not a bar to proceedings against the young person under this Act, but where the youth court is satisfied that the young person has totally or partially complied with the terms and conditions of the alternative measures, it may dismiss a charge against the young person if certain conditions are met.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings: article 37 (b), (c) and (d)

1252. Any child arrested or detained is protected by the *Canadian Charter of Rights and Freedoms* and the *Young Persons Offenders Act*.

1253. Pursuant to the *Young Persons Offenders Act* a young person who is charged with an offence and detained before trial or committed to custody under the Act is held separate and apart from adults. There is no restriction on the right to maintain contact with his or her family.

1254. Persons arrested or detained are entitled to legal counsel and have the right to challenge the legality of their detention before a court without unreasonable delay.

3. The sentencing of juveniles, in particular, the prohibition of capital punishment and life imprisonment: article 37 (a)

1255. The maximum disposition permitted under the *Young Persons Offences Act* is for a period of three years.

4. Physical and psychological recovery and social reintegration: article 39

1256. Any child who has been the victim of any form of abuse, neglect or exploitation would have access to any of the programmes and services available through the Department of Social Services described earlier in this report. In the Community there are a variety of organizations that offer services to victims. The Working Group on Child Sexual Abuse provides a multidisciplinary forum for professionals working with victims and their families as well as offenders. There are approximately 20 active Child Protection teams in the province and the number continues to increase. The teams have been formed on a voluntary basis by individuals in a community who recognize the seriousness and prevalence of child sexual abuse, and other forms of abuse and neglect, and who want to initiate action at the community level to address the problem. Their activities include reporting of suspected cases of abuse and neglect, treatment consultation, referrals to services and programmes, public education and awareness, skill development for front line workers and advocacy. The Provincial Association Against Family Violence is made up of a number of groups and agencies through out the province who provide support or services to victims of family violence. The groups objectives include assisting groups in developing services for victims and public education on issues related to family violence. There are also a number of other agencies throughout the province involved in services to victims of family violence.

1257. Children who are in conflict with the law and are in a closed custody facility have the services of social work staff, child care workers, psychologists, nursing care and an educational facility.

J. Children in situations of exploitation, including physical and psychological recovery and social reintegration

1. Economic exploitation, including child labour: article 32

1258. The *Labour Standards Act* regulates employment of children in the province. Section 46 prohibits an employer from employing a child to do work that is or is likely to be unwholesome or harmful to the child's health or moral development, or prejudicial to the child's attendance at school or to the child's capacity to benefit from instruction given at school.

1259. Children under the age of 14 years are prohibited from being employed in areas other than those prescribed by regulation under the authority of the *Labour Standards Act*. The Act regulates hours and conditions of employment. An employer may not employ a child to work for more than 8 hours a day; for more than 3 hours on a school day unless a certificate covering that day has been issued under the *School Attendance Act*; for a period that, when added to time required for attendance at school on that day, totals more than 8 hours; between the hours of 10 p.m. of one day and 7 a.m. of the following day; in circumstances that would prevent the child from obtaining a rest period of at least 12 consecutive hours a day; in occupations that are prescribed as hazardous occupations or undertakings.

2. Drug abuse: article 33

1260. The Department of Health provides a drug dependency service with education as the major thrust. The school system provides programmes to educate children on the danger of drug abuse.

3. Sexual exploitation and sexual abuse: article 34

1261. The *Child Welfare Act* defines a child in need of protection as a child who is sexually abused, sexually exploited or in danger of being subjected to such treatment. Educational programmes in the schools alert children to the illegality of sexual exploitation and sexual abuse, as well as informing them on how to report such incidents and the importance of reporting them.

4. Children belonging to a minority or an indigenous group: article 30

1262. The University operates a two-year programme to train Aboriginal peoples to teach in Aboriginal schools in an attempt to protect the cultural, religious and linguistic aspects of education of Aboriginal peoples in the province.

1263. Children who are members of a minority or an indigenous group and who come under the care of the director of child welfare will not be separated from their community if it is possible to avoid such separation.

1264. A school programme for those with French as a first language is available in the province where numbers warrant. The intent of the programme is to protect the culture and language of francophone Newfoundlanders in education.

XI. YUKON

A. General

1265. The preamble to the Yukon *Human Rights Act* acknowledges that the Yukon government has a responsibility to encourage understanding and recognition of human rights consistent with Canada's international undertakings and with the initiatives taken by Canada and the provinces.

B. Definition of a child

1266. The *Age of Majority Act* provides that for the purposes of any law within territorial jurisdiction every person attains the age of majority, and ceases to be a minor, on attaining the age of 19 years.

1267. Although there is no legal minimum age for employment, the Employment Standards Board can, under the *Employment Standards Act*, specify the circumstances and occupations in which persons under 17 years of age may be employed, fix the conditions of such employment and prescribe the minimum age for such employment.

1268. Pursuant to the *Occupational Health and Safety Act*, the Mine Safety Regulations state that the minimum age of a worker in a mine shall be 16 years

of age for surface mines (excluding the working face of such a mine); and 18 years of age at an underground mine or the working face of a surface mine.

1269. The *Education Act* provides for free educational programming appropriate to individual needs for children over the age of 5 years and younger than the age of 21.

1270. The *Liquor Act* prohibits any person under the age of 19 years from consuming and purchasing liquor in the Yukon.

C. General principles

1. Non-discrimination

1271. Several Yukon statutes contain clauses that prevent discrimination against children. These statutes apply to all children in the Yukon.

1272. The *Human Rights Act* states among its objectives the advancement in the Yukon of a public policy that every individual is free and equal in dignity and rights, and the promotion of recognition of the inherent dignity and worth, and equal and inalienable rights, of all members of the human family.

2. Best interests of the child

1273. The best interests of the child is a central principle of the *Children's Act*. Section 1 of the *Children's Act* states that the paramount consideration shall be the interests of any child affected by proceedings under this Act, and, where the rights or wishes of a parent or other person and the child conflict, that the best interests of the child shall prevail.

3. Respect for the views of the child

1274. Section 30.1 of the *Children's Act* states that in determining the best interests of a child for the purposes of an application under this Act in respect of custody of or access to a child, the courts shall consider all the needs and circumstances of the child including the views and preferences of the child, where such views can be reasonably ascertained.

1275. Under the *Children's Act*, an adoption order shall not be made without the written consent of the child, where the person proposed to be adopted is 12 years of age or older and is capable of giving informed consent.

D. Civil rights and freedoms

1276. The *Vital Statistics Act* requires that the birth of every child born in the Yukon be reported and registered within 30 days after the birth of that child.

1277. The *Children's Act* states that where practicable, a child shall be placed with a family of his or her own cultural background and lifestyle, preferably in the child's home community.

1278. The Yukon government has entered into a five-year cooperative and funding agreement with the Government of Canada on the development and enhancement of Aboriginal languages. The objectives of this agreement are:

(a) Funding and supporting to ensure growth and protection of Aboriginal languages;

(b) Responding to the language needs of Aboriginal communities in Yukon;

(c) Providing public services in the Aboriginal languages of the Yukon in accordance with the *Languages Act*.

Aboriginal children in the Yukon are beneficiaries of these programmes and services.

1279. The *Children's Act* provides for the taking of a child into care where there are reasonable and probable grounds to believe that the child's life, safety or health is in immediate danger.

E. Family environment and alternate care

1280. Pursuant to the *Children's Act*, it is the policy of the Yukon government to promote family units and diminish the need to take children into care, or to keep them in care. To that end, all reasonable steps are taken to ensure the safeguarding of children, to promote family conditions that lead to good parenting, and provide care and custody supervision for children in need of protection.

1281. The *Maintenance and Custody and Enforcement Act* provides for an order of a court in or outside the Yukon for payment of monies as maintenance or support. The *Reciprocal Enforcement of Maintenance Orders Act* provides for the enforcement of a reciprocal enforcement order in another province, state or country. The Yukon currently operates reciprocal enforcement with all Canadian provinces and territories, 30 United States states and with other countries.

1282. The *Children's Act* provides for the protection of children. The Department of Health and Social Services is responsible for alternative care of children, including foster placement, or if necessary, placement in a suitable institution.

1283. The Official Guardian of children is the Public Administrator, who is responsible for protecting the rights and interests of minor children pursuant to the *Children's Act*.

1284. Adoptions are handled pursuant to Part III of the *Children's Act*. The court may make an order granting an adoption where the court is satisfied that it is proper, and in the best interests of the person to be adopted, that the adoption should take place.

1285. The Department of Health and Social Services works with the appropriate authorities at the provincial, federal and international level to prevent and remedy the kidnapping or retention of children abroad by a parent.

1286. The Yukon government has legislated the *Hague Convention on the Civil Aspects of International Child Abduction* as a schedule under the *Children's Act*.

1287. The *Children's Act* provides for the taking of a child into care when that child is being abused or neglected while in the care of parents, legal guardians or any other person who has care of the child.

F. Basic health and welfare

1288. The Department of Health and Social Services in the Yukon offers a wide range of programmes and services aimed at maintaining the health and welfare of all Yukon children. These programmes and services are typically geared to the following areas:

(a) Prevention: a pre- and post-natal care and follow-up, immunization and a free dental health programme are offered in all Yukon schools up to grade 8;

(b) Screening: there is public health screening of all Yukon children; speech, hearing and vision assessments are carried out when required and developmental assessments are done through public health;

(c) Treatment: universal treatment is provided on basic health care to children and adults. In addition, dental health treatment and speech and hearing services are provided to children, and the child development centre provides pre-school treatment services to children with disabilities and developmental problems.

1289. Services provided through the school programme include family life education, health screening programmes, and treatment services comprising physiotherapy and psychological counselling.

1290. The Yukon Liquor Corporation has a programme whereby all alcohol sold in the Yukon is affixed with a special label that states: "Warning: drinking alcohol during pregnancy can cause birth defects", in an attempt to reduce the incidence of foetal alcohol effect or syndrome in newborns.

G. Education, leisure and cultural activities

1291. The *Education Act* provides for free educational programming appropriate to individual need for children over the age of 5 years and younger than the age of 21.

1292. Section 12 of the *Education Act* states that no tuition fees shall be charged to the student, or the parents of the student, for attending an educational programme delivered by the School Board.

1293. The preamble to the *Education Act* recognizes that the Yukon curriculum must include the cultural and linguistic heritage of the Yukon Aboriginal people and the multicultural heritage of Canada. It also recognizes that rights and privileges enjoyed by minorities as enshrined by the law shall be respected.

1294. Section 15 of the *Education Act* states that students who have intellectual, communicative, behavioural, physical or multiple exceptionalities, or who are in need of special education programmes, are entitled to receive an individualized education plan. The Act further states that a student who is entitled to receive such a plan shall have the programme delivered in the least restrictive and most enabling environment.

1295. Section 34 of the *Education Act* outlines the rights of students as follows:

(a) to receive a free educational programme appropriate to their needs;

(b) to receive an educational programme outlined in an individualized education plan when the student is in need of a special educational programme;

(c) to examine and copy their student records;

(d) to be provided with accommodation where they are required to live away from home to receive an educational programme;

(e) to be treated in a fair and consistent manner, and

(f) to appeal, either alone or with their parents, decisions that significantly affect their education, health, or safety.

1296. Section 35 of the *Education Act* allows a student to express any religious, political, moral or other belief or opinion so long as the expression does not adversely affect the rights or education of other students, or the rights of other persons in the school.

H. Special protection measures

1297. The administration of the *Young Offenders Act* is the responsibility of the provinces and territories. Juvenile justice in the Yukon territory is administered by the Department of Health and Social Services.

1298. Pursuant to the *Young Offenders Act*, young offenders are segregated from adults and treated appropriately. Young offenders who are in custody are held in separate facilities which are designed for this use and which range from group homes to a secure environment. These facilities incorporate educational, vocational, recreational and culturally relevant programming.

1299.*

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* The text of paragraph 1299 appears in the original French version of the initial report of Canada, submitted in accordance with article 44 of the Convention on the Rights of the Child, but not in the original English version.

XII. NORTHWEST TERRITORIES

A. Definition of the child

Article 1

1300. Pursuant to the *Age of Majority Act*, section 2, "Every person attains the age of majority, and ceases to be a minor, on attaining the age of 19 years."

1301. Education is compulsory for children who are from 6 years to 15 years of age on 31 December of an academic year, pursuant to section 131 of the *Education Act*.

1302. Although there is no legal minimum age for employment, the ability of children to work is restricted by the compulsory school attendance provisions of the *Education Act* and also by other legislation.

1303. The *Employment of Young Persons Regulations*, made pursuant to the *Labour Standards Act*, restrict the employment of persons under 17 years of age. Such young persons cannot be employed in the construction industry or late at night without a permit from the Labour Standards Officer. Also, employers must be able to satisfy the Officer, on demand, that the employment of a young person is not liable to be detrimental to his or her health, education or moral character.

1304. In addition, specific statutes limit the age of workers in designated industries. For example, pursuant to section 6 of the *Mining Safety Act*, a person under the age of 16 may not be employed in or around a mine and a person under the age of 18 may not be employed underground or at the working face of any open cut workings, pit or quarry.

1305. The age for voluntarily giving testimony in court is not specified in the relevant legislation. Instead, pursuant to section 19 of the *Evidence Act*, the evidence of a "child of tender years" requires corroboration. Pursuant to the Act, the acceptability of children's evidence is determined by the child's intelligence and understanding of the duty of speaking the truth.

1306. Under the *Young Offenders Act*, a person who committed an offence when the person was under the age of 12 will not be found liable for the offence. That Act, which contains safeguards for young offenders, applies to young people who have committed offences when they were under the age of 18.

1307. People under the age of 19 may not purchase, possess or use liquor, pursuant to the *Liquor Act*.

B. General principles

Articles 3 and 12

1308. In late 1988, an eight-member Working Group on Family Law Reform was appointed by the Ministers of Justice and Social Services to conduct research and develop a consultative policy document for reform to family law, including child welfare and adoption. In September 1992 The Report of the Ministerial

Working Group on Family Law Reform was submitted to the responsible Ministers. It contained 256 recommendations for the reform of family law in the Northwest Territories.

1309. The Ministers intend to respond to the Report and propose reform to the outdated body of family law that is currently in existence. Proposals for reform will be developed in light of the *Convention on the Rights of the Child*, to ensure adherence.

C. Civil rights and freedoms

1. Article 7

1310. Pursuant to section 2 of the *Vital Statistics Act*, the birth of every child born in the Territories must be registered in accordance with the Act. The child must be registered with a surname, which can be the surname of the mother or the father or a hyphenated surname, and with a "given" name.

2. Article 17

1311. The government of the Northwest Territories recognizes the important function performed by the mass media in the development of children. The Department of Education, Culture and Employment plays the largest role in ensuring the fulfilment of this Article.

1312. The Department of Education and the Department of Culture and Communications amalgamated in August 1992 to form the Department of Education, Culture and Employment.

1313. The Department provides funding to three Aboriginal communications societies: the Inuit Broadcasting Corporation (IBC), the Native Communications Society (NCS) and the Inuvialuit Communications Society (ICS). Two children's programmes have been produced by IBC since 1991. One of them, Takuginai, which was the first children's show to be broadcast in an Aboriginal language, achieved the highest audience ratings per capita of any television programme in North America. Funding has also been used to begin a successful programme to encourage students to produce Aboriginal language videos. Since 1991 several videos have been produced and aired on "The Tube", the Northwest Territories teen show.

1314. Teaching and Learning Centres have been created in nine regions of the Northwest Territories. Among their many activities is the promotion of Aboriginal languages in schools and communities and the publication of educational materials and children's literature. More than 300 children's books have been published since 1991.

D. Family environment and alternative care

1. Article 5

1315. The government of the Northwest Territories respects parental authority as provided for in local custom in the guidance of children as persons with

evolving capacities. Under the *Child Welfare Act*, a child may only be apprehended from his or her parents or guardians when the child is in need of protection.

2. Article 18, paragraphs 1-2

1316. Both parents have common responsibilities for the upbringing and development of the child, whether the parents are married or not. Both have obligations to maintain the child and a non-custodial parent may apply for access to the child.

1317. Pursuant to the *Child Welfare Act*, "...a person is the child of his or her natural parents, and his or her status as their child is independent of whether he or she is born within or outside of marriage."

1318. Pursuant to the *Domestic Relations Act*, "Unless otherwise ordered by the Court or a justice, the mother and father of a child who are living together or have lived together at any time during the life of the child, whether or not married to each other, are the joint guardians of their child."

1319. Also, pursuant to the *Domestic Relations Act*, parties may apply to the Court to determine custody of and access to a child. The considerations which a court shall consider include the welfare of the child, the conduct of the parents and the wishes of each parent. The aforementioned Family Law Review Report recommends that in legislative reform decisions on custody and access should be made in the best interests of the child. The Department of Justice supports this recommendation and will be putting this forward in proposals for reform.

1320. The *Child Welfare Act*, the *Domestic Relations Act*, and the *Maintenance Act* (also annexed) all contain provisions for the application by a party to the court for payments from a parent for the maintenance of a child. The current provisions are inconsistent with regard to the extent of the obligation and the factors on which a court would base an award. The Department of Justice will be proposing reform in this area consistent with article 18, paragraph 1.

1321. The government of the Northwest Territories renders appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities. For parents who are financially unable to meet the responsibilities of child-rearing, the Department of Social Services administers a Social Assistance programme pursuant to the *Social Assistance Act* and its attendant Social Assistance Regulations.

1322. For parents who are unable to care for a child at all and who cannot find substitute care-givers, the State will assume the care of the child on a temporary or permanent basis in a treatment centre, group home or foster home, depending on the best placement to meet the child's need.

1323. The government is also responsible for educational institutions and for health care facilities and services which assist parents in fulfilling their responsibilities.

3. Article 9

1324. Under the *Child Welfare Act*, a child may only be taken by the State from his or her parents when the child is in need of protection.

1325. Where a child is apprehended without a warrant, the child must be brought before a court within a reasonable period of time having regard to the circumstances and opportunity for travel and no later than 45 days from the apprehension. Parents and persons having actual care and custody of the child must be given 10 days' notice. A parent whose child has been apprehended and who wants to have the matter brought before the court at an earlier date may, pursuant to the *Child Welfare Act*, apply to the Supreme Court for an order for the production of the child.

1326. There are policies in place in the Programme Manual for Child Welfare Workers to involve the parents in the development of a case plan for a child who is in the care of the Superintendent of Child Welfare and to arrange for regular contact between the child and his or her family.

1327. The parents of a child charged with an offence and taken into custody must be advised of the whereabouts of the child. The territorial *Young Offenders Act* contains broad provisions on the notice that must be given to the parent of a child in custody or charged with an offence.

1328. The family of an adult incarcerated in a territorial correctional institution would also be advised of the whereabouts of the adult. The *Corrections Act* contains a provision on the correspondence and visits from his or her family that an inmate may receive.

4. Article 27, paragraph 4

1329. The Department of Justice administers a Maintenance Enforcement Programme for the enforcement of maintenance orders of courts of the Northwest Territories and orders registered under the *Maintenance Orders (Facilities for Enforcement) Act*.

5. Article 20

1330. A child temporarily or permanently deprived of his or her family environment is entitled to special protection and assistance provided by the Department of Social Services. In addition to carefully selected foster home placements to provide the child with emotional support, supervision, food and shelter, the foster care budget covers clothing, transportation, medical and dental expenses and funding for gifts and recreation for the child. The budget also provides for special needs children and placements for severely emotionally, behaviourially and mentally disturbed children. The Adoption Programme includes subsidized adoptions for children with special needs.

6. Article 21

1331. The government of the Northwest Territories accepts the practice of Aboriginal custom adoption. The government respects the customs of the Aboriginal peoples who have practised this form of adoption for many years and

it does not regulate these adoptions. This exception to the wording of the Convention is noted in the reservation made by Canada upon ratification of the Convention.

1332. If there is concern by an authority that a custom-adopted child is in need of protection, then the matter is treated in the same manner as for any other child. There will be intervention in the matter to the extent required for the protection of the child.

1333. Adoptions, other than custom adoptions, are regulated by the *Child Welfare Act*, Part V. The Department of Social Services has responsibilities with regard to adoptions. The Superintendent of Child Welfare is responsible for causing an investigation to be conducted and a report to be prepared on each applicant to adopt a child. The Supreme Court is responsible for hearing Petitions for Adoption. The Court must have sufficient information on the child to be adopted and each petitioner. The consent of the guardians of the child must be given. Consent is only dispensed with under exceptional circumstances.

1334. The aforementioned Family Law Review Report proposed changes to legislation on adoption which would place more emphasis on the best interests of the child. The Department of Social Services supports the recommendations and will put forward proposals for legislative reform based on them.

1335. The National Adoption Desk is used for intercountry adoptions.

7. Article 19

1336. The government of the Northwest Territories places a high priority on the protection of children. The *Child Welfare Act* authorizes the apprehension of a child when there are reasonable grounds to believe that the child is in need of protection. The *Child Welfare Act* requires mandatory reporting of child abuse to the Superintendent of Child Welfare.

1337. In recognition of the need for an inter-agency response to the problems of child abuse the Department of Education published, in 1987, the document Child Abuse - Procedures for Reporting Suspected Child Abuse with support from the then Department of Health and Social Services, Department of Justice and Public Services, Department of Health and Welfare Canada (Regional Office), the Royal Canadian Mounted Police, the Northwest Territories Teachers Association and the Department of Justice Canada (Regional Office). The document was designed to assist employees of the Department of Education in understanding their obligations to report child abuse and to guide their reporting practices.

1338. The government of the Northwest Territories has a Policy on Family Violence including child abuse and child sexual abuse, under which contributions are granted to non-profit organizations which direct their efforts to provide programmes and services to assist families and individuals affected by family violence.

1339. The Department of Social Services administers a Child Sexual Abuse Programme. A document entitled Healing the Hurt - A Strategy for Dealing with Child Sexual Abuse in the Northwest Territories, describes the programme. A

Child Sexual Abuse Protocol was developed by an inter-agency committee involving the territorial Departments of Social Services, Health, Education, and Justice, "G" Division of the Royal Canadian Mounted Police and the Yellowknife Regional Office of Justice Canada. The protocol contains guidelines and procedures for a coordinated response to child sexual abuse in the Northwest Territories.

1340. The Department of Justice, in consultation with other departments and agencies, is developing a strategy to deal with violence in the Northwest Territories. The main focus is to be on family violence, which affects children to a great extent. It is planned that the strategy will be tabled in the Legislative Assembly in November 1993.

1341. By September 1994 the Department of Education expects to complete a Child Abuse Handbook for school staff, which will deal with many issues including recognition of signs of neglect, physical and sexual abuse, reporting requirements and duties, the court case and dealing with the child after the report has been made. This is also being developed using an inter-agency approach.

8. Article 39

1342. The Department of Social Services administers programmes for physical and psychological recovery of child victims through the Child Sexual Abuse Programme and through treatment contracts with professionals and referrals to Family Counselling Services.

9. Article 25

1343. Provisions for placement reviews are found in the aforementioned *Child Welfare Act*, the Programme Manual for Child Welfare Workers and the *Young Offenders Act*.

E. Basic health and welfare

1. Article 6, paragraph 2

1344. The government of the Northwest Territories ensures to the maximum extent possible the survival and development of the child through education, cultural, recreation, health, family services and social assistance programmes.

2. Article 23

1345. The Department of Education developed a Directive on Inclusive Schooling over a four-year period (approved February 1993) in order to facilitate the inclusion of all children into the school system and to provide appropriate education programming for them. The Directive also contains information on the education of students in temporary residency situations which include medical and long-term care facilities, treatment facilities and open custody facilities or group homes.

1346. The Department of Social Services provides funding to cover the expenses of children with special needs who are in care and will assume custody of a

child by agreement to allow such children to come into care when appropriate. That department also provides adoption subsidies for children with special needs.

1347. Under the Social Assistance programme some assistance can be provided for children for rehabilitation purposes, including special clothing, transportation and prosthetic devices, if these needs cannot be met by any other allowance (see the Social Assistance Regulations).

1348. Disabled children effectively obtain health care and rehabilitative services through programmes administered by the Department of Health.

3. Article 24

1349. Extensive health-care services are offered to people in the Northwest Territories, including prevention and promotion services, and diagnostic, treatment and rehabilitative services.

1350. The decentralized system of health-care services in the Northwest Territories uses regional Health Boards. They have a major responsibility in the planning, management and delivery of health-care services. They administer the delivery of medical, dental and other programmes and services in their regions, manage local hospitals, health centres and public health units. They are accountable to the Territorial Hospital Insurance Services Board.

4. Article 26

1351. Under the Social Assistance programme each child is entitled to social assistance benefits as a member of a household where the head of the household is eligible to receive social assistance. Benefits are normally paid to the parent. Children between the ages of 16 and 18 can receive benefits if they are living away from home and parents are unable or unwilling to provide for their care.

5. Article 18, paragraph 3

1352. The Department of Education, Culture and Employment administers the *Child Day Care Act* and Regulations which includes licensing and standards for day-care facilities in the Northwest Territories. The programme also provides some funding for non-profit child day-care facilities and subsidies for parents who require it.

1353. With regard to the Social Assistance programme, the Department of Social Services will provide an additional benefit to working parents in receipt of social assistance who have day-care expenses. The Department will provide funding for day-care costs to a recipient if the person is ill or needs a break from the day-to-day care of children. A medical certificate is required under those circumstances.

1354. The Department of Education has two day-care facilities in schools in the Northwest Territories and is planning a third. These are shared care

centres which students help to run and from which students learn parenting skills. These facilities assist students who have parental responsibilities to continue with their education.

6. Article 2,7 paras. 1 - 3

1355. Pursuant to the *Maintenance Act*, the father and mother of a child under the age of 16 years are responsible for providing maintenance for the child, including adequate food, clothing, medical aid and lodging. The age limit will be reviewed by the Department of Justice in proposals for family law reform. Exception may be made to the requirement to maintain the child if the parent is financially unable to do so; the parent in this situation may apply for social assistance. The mandate of the Social Assistance programme is to provide for the basic needs of all Northwest Territories residents who are assessed to be in need.

1356. Basic needs covered include food, shelter, clothing and personal care. An additional benefit is provided at Christmastime for children. An allowance for seasonal clothing is also available. Expenses related to education, such as transportation, text books, school supplies, special clothing and activity fees can be provided if they are not available from any other source.

F. Education, leisure and cultural activities

1. Article 28

1357. Education is compulsory for children between the ages of 6 and 15. Pursuant to the *Education Act*, primary and secondary education is free for all students whose parent or guardian resides in the Northwest Territories. Various types of secondary education are provided. A particularly promising programme that is now being developed for Territorial Senior Secondary Schools is Career and Technology Studies. It is being developed in partnership with business and other sectors of the community.

1358. The Department of Education, Culture and Employment administers an extensive programme of student financial assistance.

1359. Several government initiatives have the objective of encouraging students to stay in school. One is the extension of grades to the senior secondary school level in many small communities. Senior secondary programmes are now offered in 26 communities compared to only 7 communities 10 years ago. Another measure to encourage attendance, begun in 1987, is the presence of school and community counsellors who keep track of each student's attendance and counsel students and their families to encourage the child's attendance at school. In addition, programmes such as the development of modules to allow part-time study, and the establishment of day-care programmes in schools encourage the participation of young people who may have parental or other responsibilities.

1360. Attendance increased from 79 per cent in 1981 to 85.7 per cent in 1991. Truancy decreased from 17 per cent in 1983 to 7.5 per cent in 1991. Over the last five years the proportion of students who go on to the secondary school programmes has increased from 40 per cent to 75 per cent.

1361. The Department of Education, Culture and Employment is currently working on a proposed new *Education Act*. The proposed legislation will state that corporal punishment will not be used in the discipline of students. A statement regarding respect for the dignity of students is also contemplated.

1362. In the Northwest Territories the Minister of Education, Culture and Employment is responsible for setting overall direction for the school system, for maintaining a consistent level of education across the jurisdiction and for ensuring that education is of a similar standard to education in other parts of Canada.

1363. Responsibility for the delivery of education belongs to School Boards and Divisional Boards of Education. The first Divisional Board of Education was formed in 1985 and the most recent one in 1991. Consequently the relationship between the Boards and the Department of Education, Culture and Employment is still evolving.

2. Article 29

1364. A new social studies curriculum (1993) for elementary and junior high school students addresses the goals expressed in article 29 of the United Nations Convention on the Rights of the Child. The introduction of the curriculum for elementary school children expresses the aim of the Department of Education, Culture and Employment by stating that, to prepare students for the twenty-first century, they must be helped to think critically and creatively about social and political issues as well as the social and political implications of their actions; they must be empowered to take action and influence events. For this to happen, schools must open their doors and both invite the community in and send students into the community to explore public policy in action and participate whenever appropriate.

1365. With regard to the issue of religion and public schools, the proposed new *Education Act* will remove the current provision allowing the school day to begin with the Lord's Prayer. The proposed Act will refer to spiritual values and religion in a manner consistent with the *Canadian Charter of Rights and Freedoms*.

1366. Respect for the natural environment is an important part of life for Aboriginal peoples and others in the Northwest Territories, and development of that respect is assisted through school programmes. Sustainable development education, which includes environmental issues, is taught as part of Language Development and in the Science curriculum. Learning about the environment is also part of the Social Studies curriculum.

3. Article 31

1367. The Department of Education, Culture and Employment encourages children to participate in cultural life and the arts. There are specific requirements for the inclusion of Art and Physical Education Programmes in schools. These are found in the Elementary/Junior High Handbook and the Secondary School Handbook. The Department of Municipal and Community Affairs provides support and assistance to local governments in the development of community recreation services and programmes in which children participate.

G. Special protection measures

1. Article 39

1368. The Department of Social Services administers programmes for physical and psychological recovery of child victims through the Child Sexual Abuse Programme, treatment contracts and referrals to Family Counselling Services. Special placements are arranged for children with special needs who are in the care of the Superintendent of Child Welfare.

2. Article 40

1369. The territorial *Young Offenders Act* embodies the objectives of article 40 with regard to territorial offences.

3. Article 32

1370. To reiterate what was stated with regard to article 1, although there is no overall legal minimum age for employment, the ability of children to work is restricted by the compulsory school attendance provisions of the *Education Act* and also by other legislation.

1371. The Employment of Young Persons Regulations, made pursuant to the *Labour Standards Act* restrict the employment of persons under 17 years of age. Such young persons cannot be employed in the construction industry or late at night without a permit from the Labour Standards Officer. Also, employers must be able to satisfy the Officer, on demand, that the employment of a young person is not liable to be detrimental to his or her health, education or moral character. In addition, specific statutes, for example the *Mining Safety Act*, limit the age of workers in designated industries.

1372. Hours of work and other conditions of employment are governed by the *Labour Standards Act*. Other specific enactments, such as the *Mining Safety Act*, also deal with selected conditions of employment within designated industries. The *Labour Standards Act* and other such statutes provide for administration by government bodies and for the prosecution of those who violate the provisions of the legislation.

4. Article 33

1373. The Health curriculum for kindergarten to grade 9 students includes a prevention programme on alcohol and substance abuse. Many resources have been designed for use in this programme.

5. Article 36

1374. The Department of Social Services provides means for the protection of children. Pursuant to the *Child Welfare Act*, any person who has information that a child may be subject to abuse is required to report the information to the Superintendent of Child Welfare who will cause the matter to be investigated. The inter-agency protocols on child abuse and child sexual abuse assist in the reporting, investigation and prosecution processes.

6. Article 35

1375. The Northwest Territories is a signatory to the *Hague Convention on the Civil Aspects of International Child Abduction*.

7. Article 30

1376. The majority of the people of the Northwest Territories are Aboriginal. Many of the education programmes and structural innovations initiated by the Department of Education are fulfilling objectives outlined in article 30. The Divisional Board structure allows local cultural input to educational programming.

1377. In order to give students from all cultural and linguistic backgrounds a greater appreciation of the cultures of the Aboriginal peoples of the Northwest Territories, a Northern Studies programme has been introduced into the school system.

1378. Community-based teacher education programmes are operating in Northwest Territories communities. These will assist in fulfilling the goal of having 50 per cent of the teaching staff be of Aboriginal origin by the year 2000. The current level is 23 per cent.

1379. The Northwest Territories has developed its own curricula for kindergarten to grade 9, and as a result of local control of education, the system responds to the needs of northern students through the integration of local language and culture in school programmes and services. The development of the new curricula made extensive use of the knowledge and ability of community elders. The process for curriculum change involves input from Divisional Boards and public consultation.

1380. The *Official Languages Act* recognizes the following languages as official languages of the Northwest Territories: Chipewyan, Cree, Dogrib, English, French, Gwich'in, Inuktitut and Slavey. The recognition of the official status of the Aboriginal languages as well as English and French supports the fulfilment of the objectives outlined in Article 30.

Part Three

STATISTICAL ANALYSIS

Introduction

1381. This section contains statistical data on the situation of children in Canada relevant to the *Convention on the Rights of the Child*. The data complement the information provided in Canada's first report under this Convention.

1382. The document is organized in six parts:

(a) Population characteristics;
(b) Family perspectives;
(c) Children's health;
(d) Economic well-being;
(e) Education;
(f) Crime and justice.

1383. This information is intended to respond as closely as possible to the statistical information requested by the Committee on the Rights of the Child in its General Guidelines, that is, statistical information on family environment and alternative care, basic health and welfare, education, leisure and cultural activities, and special measures.

1384. This document was prepared by the Target Group Project of Statistics Canada. The data in the report are drawn from a variety of Statistics Canada sources such as the Census of Canada, the Labour Force Survey, the Survey of Consumer Finances, the General Social Survey, the Health and Activity Limitation Survey, and the Canadian National Child-Care Study, as well as from other federal government departments.

I. HIGHLIGHTS

1385. In 1991, there were 6.8 million Canadians under the age of 18. These young people made up 25 per cent of the total population. Both the number of children and their share of the population have fallen since 1971 when there were 7.7 million people under the age of 18, representing 36 per cent of the total population.

1386. In 1991, 42,200 children immigrated to Canada; they made up 18 per cent of all immigrants. The number of immigrant children in 1991 was about three times higher than in the 1983-1985 period.

1387. Refugees make up a growing share of immigrant children. In 1991, 10,800 children immigrating to Canada were classified as refugees. This was double the number of refugee children admitted to Canada in 1987 (5,400).

1388. In 1986, 425,200 people under the age of 15 were identified as being members of a visible minority. These children made up 7 per cent of all children in Canada and 27 per cent of all people belonging to visible minorities.

1389. Children also make up a large share of the Aboriginal population in Canada. In 1991, 378,200 children less than age 15 were reported to have Aboriginal ethnic roots; these children made up 36 per cent of the total population with Aboriginal ancestry. The number of Aboriginal children increased 46 per cent between 1986 and 1991, such that Aboriginal children represented 7 per cent of all Canadian children in 1991, compared with 5 per cent in 1986.

1390. The vast majority of Canadian children live in some form of family setting. In 1991, 97 per cent of all children under the age of 15 and 95 per cent of never-married 15- to 17-year-olds were living with their parent(s). Another 2 per cent of children under the age of 15 and 4 per cent of never-married people aged 15 to 17 were living within a family, either with other relatives or with non-relatives only.

1391. A growing number of children are living with just one parent. In 1991, 14 per cent of children under age 15 and 16 per cent of those 15 to 17 years old lived in a lone-parent family. Of these children, 84 per cent lived with their mothers.

1392. A very small proportion of Canadian children do not live in a family household. In 1991, 16,800 children under the age of 15, or 0.3 per cent of all children in this age range, lived in a non-family household. In the same year, 0.7 per cent of 15- to 17-year-olds lived in a non-family household and 0.2 per cent lived alone.

1393. In 1992, there were 56,700 cases of missing children recorded by police organizations in Canada, down from 61,000 such cases in 1990. In the majority of these cases the child is eventually found. At the end of 1992, 1,500 children were still listed as missing from the home of their parents(s) or legal guardian(s).

1394. The large majority of missing children are runaways; parental abductions and cases classified as kidnappings or foul play make up only around 1 per cent of all missing children. Parental abductions and kidnappings accounted for around 10 per cent of cases still active at the end of 1992.

1395. The increased participation of mothers in the paid workforce has led to a growing need for affordable child care. By 1991, there were over 33,000 licensed or provincially-approved day-care spaces in Canada. While this was more than three times the number available in 1980, the number of spaces currently available still represents only a portion of all children actually in need of care. In 1988, organized and regulated child-care facilities were the main method of care for 24 per cent of children aged 3 to 5 and for 12 per cent of those less than 3 years old in care. Parents are the main source of child care, while unrelated caregivers, such as friends, neighbours, private babysitters, and relatives also play an important child-care role, especially for families with young children.

1396. Infant mortality has dropped sharply in Canada in the last several decades. In 1991, there were 6.4 infant deaths per 1,000 live births, less than one-fourth the rate in 1960.

1397. Infant mortality has also fallen dramatically among registered Indians. In 1990, there were 10.2 infant deaths per 1,000 live births among registered Indians living on reserves, down from 82.0 for every 1,000 live births in 1960. The current level of infant mortality among registered Indians, though, is still about 50 per cent higher than the rate for the overall population.

1398. Deaths are relatively rare among children aged 1 to 14. In 1991, there were 1,260 such deaths, or 24 per 100,000 children in this age range, less than half the figure in 1971.

1399. As of April 1993, 79 Canadian children under age 15 had been diagnosed as having AIDS. Most of these cases occurred before 1990; only 22 cases were diagnosed in the period 1990-1993. The majority of AIDS cases among children (60) occurred as a result of perinatal transmission; of the remainder, 17 were passed through blood transfusions, while there was no identified cause for two cases.

1400. Suicides are relatively rare among Canadian children; however, suicide rates are considerably higher among young registered Indians than in the overall population. Between 1986 and 1990, there was an average of 37 suicides for every 100,000 registered Indian youth aged 10-19, five times greater than the figure among non-Indians.

1401. In 1991, 389,400 Canadian children under the age of 15, or 7 per cent of the total population in this age range, were reported to have some degree of disability.

1402. In 1991, 1.2 million children under the age of 18, or 18 per cent of all children, lived in families with incomes below Statistics Canada's Low Income Cut-offs. There was little change in the percentage of children living in low-income families during the 1980s.

1403. Children in lone-parent families are particularly likely to be in low-income situations. In 1991, 62 per cent of lone-parent families headed by non-elderly females with children under the age of 18 were classified as having low incomes.

1404. In the 1990-91 academic year, virtually 100 per cent of all children aged 6 to 15 were in school. At the same time, enrolment rates were 96 per cent for 16-year-olds and 80 per cent for those aged 17. Only 45 per cent of 19-years-old were enrolled in an academic institution.

1405. At the other end of the age spectrum, almost all 5-year-olds (99 per cent in 1990-91), were enrolled in either kindergarten or grade 1, while nearly half of 4-year-old children, 49 per cent in 1990-91, were in kindergarten.

1406. There has been marked improvement in the enrolment rates of registered Indian children in educational facilities. By 1991, 54 per cent of registered Indian children living on reserves were staying in school until grades 12 or 13, compared with around 17 per cent in the 1970s and less than 5 per cent in the early 1960s.

1407. The ratio of students to teachers in elementary and secondary schools has fallen in recent years. In 1989-90, there was an average of 15.7 students in these schools for every full-time equivalent teacher, down from 17.2 in 1980-81. At the same time, expenditures per student on elementary and secondary education by all sources rose 8 per cent between 1985-86 and 1989-90.

1408. In 1991, police either charged or dealt with informally almost a quarter million young people involved in criminal incidents. That year, young people made up 25 per cent of all people charged with criminal offences, up from 22 per cent in 1987.

1409. The majority of young offenders found guilty by youth courts receive non-custodial dispositions such as probation, fines, or community service orders. About one in three cases heard in youth courts where there is a finding of guilt results in some form of custody.

1410. There was an average of 4,417 young people in custodial institutions each day in 1991-92. This was up 2 per cent from the daily average over the course of 1990-91 and 6 per cent from 1987-88.

1411. The majority of youth sent to a correctional institution receive relatively short sentences. In 1991-92, of the over 22,000 cases receiving a custodial disposition, 69 per cent received a sentence of less than 3 months, while 20 per cent were sentenced to 4 to 6 months and only 11 per cent were sentenced to more than 6 months in custody. The length of sentences received by incarcerated youth has also generally declined over the last few years.

1412. In 1991-92, 71 cases originally brought to youth courts were transferred to an adult court. The majority of cases transferred to adult courts involve older youth. Of these cases, 33 involved violent offences including 8 murders, 8 sexual assaults, and 6 robberies. Another 30 cases were for property offences, while the remainder were for other offences.

1413. Children under age 15 are considerably less likely than adults to be victims of homicide. Children under age 12 are also generally less often victims of other violent crimes, whereas children aged 12 to 15 are at somewhat greater risk of becoming victims of violent crime than the general population.

II. POPULATION CHARACTERISTICS

Children in the population

1414. In 1991, there were 5.7 million Canadians under the age of 15. While this figure was up about 300,000, or 6 per cent, from 1986, it was still almost 1 million less than in 1966 when the ranks of young Canadians were swelled by children born during the baby boom years. In fact, the increase in the number of children under age 15 in the last 5 years was the first such gain since the 1961-66 period. (Table 1.)

1415. While the actual number of children under age 15 increased between 1986 and 1991, the share of the population accounted for by children continued to decline. In 1991, people under the age of 15 made up 20.9 per cent of the

total population. This was down slightly from 1986, and well below figures recorded during and immediately after the baby boom, when children represented around a third of the population. (Chart 1.)

1416. There has also been a decline in the population aged 15 to 17. In 1991, there were 1.1 million people in this age range, representing 4 per cent of the total population. Both figures were down from highs of 1.4 million and 6 per cent, respectively, in 1976. (Table 2.)

1417. There were 6.8 million Canadians under the age of 18 in 1991. These young people made up 25 per cent of the total population. In comparison, in 1971, there were 7.7 million people under the age of 18, representing 36 per cent of the population.

Birth rates

1418. The decrease in the number of children can be traced, in large part, to a decline in the birth rate. In 1991, there were 14.9 births per 1,000 population in Canada. While the birth rate is currently slightly higher than that recorded in the late 1980s, it is still well below the rate in 1960, when there were 26.8 births per 1,000 population. (Chart 2.)

Distribution of children by sex

1419. Boys make up a slight majority of children. In 1991, males accounted for 51.2 per cent of the population under the age of 15. This is in contrast to older age groups, beginning with those aged 25 to 34, where women outnumber men.

Rural-urban distribution

1420. Children are more likely than adults to be living in a rural area. In 1991, 27 per cent of children under the age of 15 lived in an area classified as rural, compared with 22 per cent of the population aged 15 and over.

Immigrant children

1421. Nearly one in five people immigrating to Canada is under the age of 15. In 1991, 42,200 children immigrated to Canada; they made up 18 per cent of all immigrants. The actual number of immigrant children in 1991 was down somewhat from 1990 when there were 45,500 immigrants under the age of 15. Current levels of child immigration are about three times higher than in the 1983-1985 period. (Table 3.)

1422. The largest proportion of immigrant children are born in Asia. In 1991, 32 per cent of all immigrants under age 15 arriving in Canada were Asian-born, while 21 per cent were from European countries other than Great Britain and 14 per cent were born in the Middle East. Another 8 per cent were from Central America, 7 per cent were African, 6 per cent were West Indian, and 5 per cent were born in South America. Only about 4 per cent of immigrant children were born in either the United States or the United Kingdom. (Table 4.)

1423. In recent years, there has been significant growth in the proportions of immigrant children born in the Middle East and Central America, while the shares from Asia and Europe have declined.

1424. Refugees make up a growing share of immigrant children. In 1991, 10,800 children immigrating to Canada were classified as refugees. This was double the number of refugee children admitted to Canada in 1987 (5,400). Refugees made up over a quarter (26 per cent) of all immigrants under age 15 in 1991, up from 18 per cent in 1986. (Table 5.)

Children in visible minorities

1425. In 1986, there were 425,200 people under the age of 15 identified as being members of a visible minority. These children made up 7 per cent of all children in Canada; they also represented 27 per cent of the total population in the groups identified as visible minorities. (Table 6.)

1426. Children made up an especially large proportion of the small Pacific Islander population (34 per cent), as well as around 30 per cent of both Southeast Asians and Koreans. They also represented 29 per cent of those with Indo-Pakistani ancestry, 28 per cent of Filipinos, and 27 per cent of those with Black, Latin American, or West Asian and Arab roots. At the same time, children made up somewhat smaller shares of the Chinese (24 per cent) and Japanese (23 per cent) communities in Canada.

Aboriginal children

1427. Children also make up a large share of the Aboriginal population. In 1991, there were 378,200 children less than age 15 who were reported to have Aboriginal roots; together, these children made up 36 per cent of the total population with Aboriginal ancestry. That year, children represented 39 per cent of the Inuit population, 37 per cent of those with Métis origins, and 36 per cent of North American Indians.

1428. The current number of children with Aboriginal roots has grown substantially in the last few years. Between 1986 and 1991, the number of these children increased 46 per cent. As a result, Aboriginal children represented 7 per cent of all Canadian children in 1991, compared with 5 per cent in 1986.

Religious affiliation

1429. The majority of Canadian children are reported to be either Catholic or Protestant. 1/ In 1991, 46 per cent of the population under the age of 15 were affiliated with the Catholic church, while 33 per cent belonged to one of the many Protestant denominations. Both figures, though, were down from 1981 when 49 per cent of children were Catholic and 39 per cent were affiliated with a Protestant group (Table 7).

1430. In contrast, the percentage of children affiliated with non-Christian Eastern religions, while still small, more than doubled in the 1980s. In 1991, 3.3 per cent of people under the age of 15 belonged to one of these religions, up from 1.6 per cent in 1981. At the same time, the number of children affiliated with parareligious groups, such as the Church of

Scientology or Native Indian or Inuit religions, almost tripled in the last decade. However, the 5,900 children who were reported as belonging to one of these groups in 1991 represented only a fraction (0.1 per cent) of all children.

1431. There has also been a particularly large increase in the share of children for whom no religious affiliation was reported. In 1991, almost 900,000 children under the age of 15, 15 per cent of the total, were classified as having no religious affiliation. The latter figure was up from 8 per cent in 1981. Children are considerably more likely to be included in the population with no religion than adults, 12 per cent of whom indicated they were not affiliated with any religious denomination or group in 1991.

III. FAMILY PERSPECTIVES

Children in families

1432. The vast majority of Canadian children live in some form of family setting. In 1991, 97 per cent of all children under the age of 15 and 95 per cent of never-married 15- to 17-year-olds were living with their parent(s). Another 2 per cent of children under the age of 15 and 4 per cent of never-married people aged 15 to 17 were living within a family, either with other relatives or with non-relatives only. (Table 8.)

1433. As well, a small number of 15- to 17-year-olds, around 7,700, or 0.7 per cent of the total population in this age range in 1991, were either married or living in a common-law relationship. Females made up 87 per cent of this group.

1434. A growing number of children are living with just one parent. In 1991, 782,200 children under the age of 15, 14 per cent of the total, were members of a lone-parent family. The latter figure was up from 9 per cent in 1976 and 12 per cent in 1986. An even higher percentage of 15- to 17-year-olds, 16 per cent in 1991, lived in a lone-parent family, a figure virtually unchanged from 1986.

1435. In 1991, 84 per cent of all lone-parent family children under age 18 lived with their mothers.

Divorce and children

1436. Women head the majority of lone-parent families, in part, because courts usually grant them custody of the children in divorce settlements. In 1990, mothers were granted sole custody of 73 per cent of all children involved in divorces, while in 14 per cent of cases the parents were awarded joint custody. Fathers received sole custody in 12 per cent of cases. (Table 9.)

1437. The actual number of children involved in court custody arrangements, however, has fallen in recent years, from over 65,000 in 1982 to 48,500 in 1990.

Children not in families

1438. Only 16,800 children under the age of 15, or 0.3 per cent of all children in this age range, lived in a non-family household in 1991. Both figures were down slightly from 1986.

1439. The vast majority of children (13,500) living in a non-family household in 1991 lived in a collective household such as a work or military camp or Hutterite colony. In the year time, around 2,000 lived in an institutional setting such as a hospital or psychiatric facility, while 1,300 lived in an orphanage or children's home. The number of children living in either a hospital or psychiatric institution or an orphanage or children's home declined by around 25 per cent between 1986 and 1991, while the number in a collective household rose 9 per cent. (Chart 3.)

1440. Those 15- to 17-year-olds are more likely than their younger counterparts to not live in a family, although the percentage is very small: in 1991, 0.7 per cent of those aged 15 to 17 lived in a non-family household and 0.2 per cent lived alone.

1441. A relatively large percentage of registered Indian children living on reserves have been placed away from parental care in order to protect them from neglect, abuse or both. In 1991-92, 4 per cent of Indian children aged 16 or less and living on a reserve were cared for in this manner, down from over 6 per cent in the latter part of the 1970s. (Table 27.)

Missing children

1442. Police recorded 56,700 cases of missing children in Canada in 1992. This figure is down from 1990, when over 61,000 such cases were reported (Chart 4).

1443. In the majority of these cases the child is eventually found. For example, at the end of 1992, 1,500 children 2/ were still listed as missing from the home of their parent(s) or legal guardian(s). This figure is also down from a high of over 2,000 in 1991. (Chart 5.)

1444. The large majority of missing children are runaways. In 1992, 93 per cent of all reported cases of missing children in which the circumstances of the disappearance were known were runaways. (Table 10.)

1445. Of the remaining cases, 1.4 per cent were either accident victims whose bodies had not been recovered or children presumed to have wandered off or been lost, while 0.8 per cent were abducted by a parent and 0.2 per cent were classified as victims of kidnappings or foul play.

1446. The number of cases involving abduction by a parent, kidnapping or foul play has fallen in recent years. For example, there were 378 cases of parental abduction in 1992, down from 432 in 1990. In the same period, the number of cases identified as kidnappings or foul play fell from 84 to 70.

1447. Parental abductions and kidnappings, though, make up a greater share of cases still active at any one time. Of cases still active at the end of 1992,

for which the cause of the disappearance was known, 7 per cent involved parental abductions and 3 per cent were kidnappings.

1448. The large majority of cases active at any one time, however, involve runaways. In fact, 73 per cent of cases still outstanding at the end of 1992 were runaways. In a further 11 per cent of these cases the missing child was believed either to have wandered off and been lost or to have been involved in an accident in which the body was not found.

1449. In a large number of cases of missing children there is insufficient evidence or information to allow police to establish the probable cause of the disappearance. In 1992, there were over 11,000 such cases, representing more than a quarter of all reported cases of missing children. The police were also not able to identify the cause of disappearance in 18 per cent of those cases still active at the end of 1992.

1450. In addition, in 1991, there were a total of 246 cases of missing children in other countries in which assistance was requested from Canadian authorities because it was believed there was a possibility that the children could be in Canada.

Children with working mothers

1451. A growing proportion of children have mothers employed in the paid workforce. In 1992, 62 per cent of women with at least one child under age 16 were employed. This was up from 50 per cent in 1981 (Table 11).

1452. Women with very young children are less likely than other mothers to be employed. Still, 54 per cent of women with children less than age 3 worked outside the home in 1992, as did 59 per cent of those whose youngest child was aged 3 to 5. At the same time, 68 per cent of women whose youngest child was aged 6 to 15 were employed.

Day care

1453. The increased participation of mothers in the paid workforce has led to a growing need for affordable child care. According to the National Child-Care Study 3/, 1.1 million children of pre-school age and 1.6 million school-aged children required some form of child care in the fall of 1988 in order to accommodate the work or study schedules of their parent(s).

1454. By 1991, there were over 33,000 licensed or provincially approved day care spaces in Canada (Table 12). While this was more than three times the number of such spaces available in 1980, the number of spaces currently available still represents only a portion of all children actually in need of care.

1455. In 1988, organized and regulated child-care facilities functioned as the main method of care for only 11 per cent of all children under age 13 whose parent(s) worked or studied. Not surprisingly, organized care is used most frequently by families with pre-school-aged children. In 1988, nearly one-quarter (24 per cent) of children aged 3 to 5 and 12 per cent of those less than 3 years old were cared for by these services. In contrast, the figure was just 5 per cent for children aged 6 to 12 (Table 13).

1456. In 1988, parents themselves were the main source of care for 28 per cent of children aged 12 and under. In 9 per cent of cases, the employed parent most responsible for child care (usually the mother) looked after the child while working, while one child in five was cared for by that parent's partner to cover work or study hours. In many cases, parents must adjust their work hours to provide this care.

1457. Unrelated caregivers, such as friends, neighbours, or private babysitters, are also an important source of child-care services. In 1988, 23 per cent of children under age 13 were cared for in such an arrangement. Unrelated caregivers are especially important for those with pre-school-aged children. This type of informal arrangement was the main source of care for 37 per cent of children under age 3 and 31 per cent of those aged 3 to 5. In contrast, it was the main form of care for 16 per cent of children aged 6 to 12.

1458. Relatives also play an important child-care role for families with very young children. Reliance on a relative was the main child-care arrangement for 24 per cent of children under age 3 and 16 per cent of those aged 3 to 5 years. In comparison, it was the main source of care for 11 per cent of children aged 6 to 12.

1459. A large percentage of school-aged children in need of care (generally before or after school) are either responsible for their own care, are looked after by a sibling, or have no formal arrangement made for their care. Indeed, in 1988, of the 39 per cent of all children aged 6 to 12 who required care in order to accommodate parental work or study schedules, 23 per cent were either looked after by a sibling or looked after themselves, while no formal arrangements outside of school were necessary for the remaining 16 per cent. 4/

Maternity benefits

1460. Another important issue facing many working women and their children is the availability of paid maternity leave. In 1991, there were 164,000 maternity absences from work in Canada, almost double the number for 1980 (87,000). There were 3.9 maternity absences for every 100 employed women aged 15 to 44 in 1991, up from 2.7 per cent in 1980. (Table 14.)

1461. The large majority of maternity absences are paid. In 1991, 89 per cent of mothers on maternity leave received some form of monetary compensation. This was up from 1980, when about three-quarters (77 per cent) of maternity absences were compensated. However, the 1991 figure was also down slightly from 1986 and 1987 when the incidence of paid maternity absences had risen to 92 per cent.

IV. CHILDREN'S HEALTH

Infant mortality

1462. Infant mortality has dropped sharply in Canada in the last several decades. In 1991, there were 6.4 infant deaths per 1,000 live births, less than one-fourth the rate in 1960 when there were 27.3 such deaths for every 1,000 live births (Table 15).

1463. Infant mortality is somewhat higher among males than females. In 1991, there were 6.9 deaths of boys under 1 year of age for every 1,000 live male births, compared with 5.8 among females.

1464. Infant mortality has also fallen dramatically among registered Indians, though the incidence of infant mortality remains higher in this group than in the overall population. In 1990, there were 10.2 infant deaths per 1,000 live births among registered Indians living on reserves, down from 82.0 for every 1,000 live births in 1960 (Table 27). The current level of infant mortality among registered Indians, however, is still 50 per cent higher than the rate for the overall population.

1465. Perinatal conditions, such as birth trauma and birth asphyxia, and congenital anomalies, including anencephalus and spina bifida, are the primary causes of infant deaths. These two conditions accounted for 70 per cent of all infant deaths in 1991. Sudden infant death syndrome was identified as the cause in a further 14 per cent of infant deaths. (Table 16.)

1466. The actual incidence of deaths due to both perinatal conditions and congenital anomalies has fallen dramatically in the last two decades. In 1991, there were 2.5 infant deaths per 1,000 live births resulting from perinatal conditions, compared with 9.1 in 1971. In the same period, the number of infant deaths from congenital anomalies fell 46 per cent, from 3.7 per 1,000 live births in 1971 to 2.0 in 1991.

1467. There are currently few infant deaths caused by contagious and infectious diseases which historically killed many children. For example, in 1991, there were no reported infant deaths caused by measles, rubella, tuberculosis, polio, or diphtheria. There were 27 infant deaths due to infectious and parasitic diseases, including 11 from septicaemia and 8 from meningococcal infections. There were also 34 infant deaths from pneumonia and influenza.

Mortality among older children

1468. Deaths are relatively rare among children aged 1 to 14. In 1991, there were 1,260 such deaths, or 24 per 100,000 children in this age range. (Table 17.) The latter figure is less than half what it was in 1971 when there were 53 deaths per 100,000 children aged 1 to 14.

1469. Children aged 1 to 4 are somewhat more at risk than older children. In 1991, there were 33 deaths per 100,000 children age 1 to 4, compared to 19 for those aged 5 to 9 and 22 among those aged 10 to 14. All these figures, though, are less than half what they had been in 1971.

1470. In all these age groups, death rates are somewhat higher among boys than girls. For example, among those aged 1 to 4 there were 38 deaths per 100,000 boys versus 27 among girls. For those aged 5 to 9, the figures were 21 deaths per 100,000 boys and 17 for girls. Among those aged 10 to 14, there were 27 deaths per 100,000 boys, compared with 17 among girls.

1471. Accidents and other adverse effects account for the largest share of deaths of children aged 1 to 14. In 1991, 43 per cent of all deaths of

children in this age range were attributed to accidents or other adverse effects. At the same time, 13 per cent were due to cancer and 10 per cent to congenital anomalies. (Table 17.)

1472. As with infants, the actual incidence of deaths among children as a result of these factors has declined sharply since 1971. For example, there were 10 deaths per 100,000 children aged 1 to 14 as a result of accidents or adverse effects in 1991, compared with 27 in 1971. At the same time, the figures for congenital anomalies and cancer were both less than half what they had been two decades ago. (Chart 6.)

1473. Causes of death among children aged 1 to 14 vary with age. For example, accidents and cancer both account for greater proportions of deaths of children aged 5 to 9 and 10 to 14 than they do among those aged 1 to 4, whereas congenital anomalies account for a greater share of deaths in the younger age group.

1474. As with infants, deaths from diseases which historically killed many children are currently very rare among those aged 1 to 14. For example, in 1991, there were no deaths reported to have been caused by tuberculosis, polio, diphtheria, or whooping cough. There were 38 deaths due to infectious and parasitic diseases among children aged 1 to 14, including 13 from meningococcal infections and 4 from septicaemia. There were also 28 deaths among children in this age range from pneumonia and influenza and 5 from bronchitis.

Life expectancy

1475. As a result of the lower mortality rates among females than among males at all ages, females generally outlive males by a wide margin. For example, girls born in the mid-1980s had a life expectancy of 79.7 years, compared with 73.0 years for males.

1476. Both figures were up from 1976 when females had a life expectancy of 77.4 years and males 70.2 years. As a result, the life expectancy of boys born in 1986 was 2.8 years longer than it had been in 1976, while girls gained 2.3 years in the same period.

Children and AIDS

1477. As of April 1993, 79 Canadian children under age 15 had been diagnosed as having AIDS. Most of these cases occurred before 1990; in fact, a total of only 22 cases was diagnosed in the period 1990-1993 (Table 18).

1478. The majority of AIDS cases among children (60) occurred as a result of perinatal transmission; of the remainder, 17 were passed through blood transfusions, while there was no identified risk for two cases.

Suicide

1479. Suicides are relatively rare among Canadian children. In 1991, there was only one reported suicide among children under age 10. This represented a rate of just 0.03 suicides per 100,000 children in this age range.

1480. In the same year, there were 2 suicides per 100,000 boys aged 10 to 14 and 1 for every 100,000 girls in this age range. These figures, however, were well below those for older teenagers. For example, in 1991, there were 23 suicides for every 100,000 males aged 15 to 19 and 4 among comparable females.

1481. Suicide rates are considerably higher among young registered Indians than in the overall population. Between 1986 and 1990, there was an average of 1 suicide per 100,000 registered Indian children under age 10, compared with none among the rest of the population in the same age range. In the same period, the suicide rate among registered Indian youth aged 10 to 19, at an average of 37 per 100,000 population, was five times greater than the figure among comparable segments of the rest of the population.

Low birthweight

1482. There has been a steady decline in the incidence of low birthweight births over the past several decades. In 1991, 5.5 per cent of all babies weighed less than 2,500 grams, down from 6.0 per cent in 1980 and 7.8 per cent in 1970.

Health risks

1483. There are few national data currently available describing the tobacco, alcohol, and other drug use of children. However, data from studies conducted in Ontario, Canada's largest province, indicate that there have been substantial declines in the usage of these stimulants among those aged 13 to 15 in that province.

1484. In 1991, almost one in five (19 per cent) Ontario teenagers aged 14 to 15 and 6 per cent of 13-year-olds reported tobacco use at least once during the year. Both figures were down substantially from highs reported in 1979, when 37 per cent of those aged 14 to 15 and 19 per cent of 13-year-olds smoked at least once during the year (Table 19).

1485. Relatively large shares of those aged 13 to 15 in Ontario report using alcohol. In 1991, over half (55 per cent) of those aged 14 to 15 reported using alcohol at least once during the previous year. This figure was down from around 75 per cent in the late 1970s. Among 13-year-olds, 30 per cent consumed alcohol at least once in 1991. However, this was only about half the percentage that reported alcohol use in the late 1970s.

1486. There have also been sharp declines in the use of drugs among Ontario 13- to 15-year-olds in the last decade or so. Drug usage in this age group is currently quite rare. Among those aged 14 to 15, for example, 6 per cent used cannabis at least once in 1991, down from 28 per cent in 1979. In the same year, 2 per cent reported using LSD, barbiturates for non-medicinal purposes, or solvents other than glue in 1991, while 1 per cent reported using cocaine, heroin, glue, or speed. All these figures have fallen since the late 1970s.

1487. Drug usage is also very rare among 13-year-olds. Only around 2 per cent of these children reported using solvents other than glue in 1991, while the percentage using various other drugs was 1 per cent or less. Again,

these figures were all down from the late 1970s when as many as 12 per cent of 13-year-olds used solvents other than glue, 10 per cent used cannabis, 7 per cent used glue, and 4 per cent used cocaine or LSD.

1488. At the same time, a small but growing percentage of those aged 13 to 15 are using steroids. In 1991, 2.0 per cent of those aged 14 to 15 and 1.2 per cent of 13-year-olds reported they had used steroids at least once during their lifetime. These figures were up from 1.4 per cent for those aged 14 to 15 and 0.3 per cent of those aged 13 in 1989.

Children having children

1489. Each year, a small number of children in Canada give birth to their own children. In 1991, there were a total of 261 births to girls under the age of 15; this represented 7.3 such births for every 10,000 girls aged 13 to 14, up from 6.0 in 1989.

1490. In the same year, there were 146 births for every 10,000 young women aged 15 to 17 in 1991, up from 137 in 1981. In the large majority of cases these young mothers were single.

Children and abortions

1491. In 1991, there were 333 therapeutic abortions performed on children under age 15. This represented 9.3 abortions for every 10,000 girls aged 13 to 14. The latter figure was down from the 1986-1989 period when there was an average of 11.3 abortions per 10,000 girls aged 13 to 14. It was also down from the late 1970s and early 1980s when there were over 14 abortions per 10,000 girls in this age range.

1492. At the same time, there were 97 abortions for every 10,000 girls aged 15 to 17 in 1991. This was down from a high of 128 recorded in 1979.

Children with disabilities

1493. In 1991, 389,400 Canadian children under the age of 15, 7 per cent of the total population in this age range, were reported to have some degree of disability. 5/ Children, however, are the least likely age group to have some form of disability. Within the adult population, for example, disability rates were 8 per cent for those aged 15 to 34, 14 per cent for those aged 35 to 54, 27 per cent among those aged 55 to 64, and 46 per cent for those aged 65 and over.

1494. Among children, disability rates increase with age. In 1991, 5 per cent of children under age 5 were reported to have a disability, compared with 7 per cent of children aged 5 to 9 and 9 per cent for those aged 10 to 14. Reported disability rates were also somewhat higher for boys (8 per cent) under age 15 than for girls (6 per cent) in this age range.

1495. Very few children have severe disabilities. In 1991, 3 per cent of children under age 15 with disabilities had a severe disability. This compared with 15 per cent of disabled people aged 15 to 64 and 32 per cent of

those aged 65 and over. In the same year, 8 per cent of disabled children had a moderate disability, while 90 per cent had a disability which was considered to be mild.

1496. The vast majority of disabled children live in private households. For example, in 1986, 6/ an estimated 2,400 children with disabilities, less than 1 per cent of all disabled children, lived in an institution.

1497. Of children with a disability living in a private household in 1986, 36 per cent attended either special schools or special classes within regular schools, while 6 per cent were not attending school at all. In addition, of children with a disability in this age range, 6 per cent began their first year of school late, 17 per cent had their schooling interrupted for long periods, and 32 per cent had taken longer than other children to reach comparable levels of education (Table 20).

1498. Also in 1986, 31 per cent of those aged 5 to 14 with a disability living in a private household took some kind of medication more than once per week. In 38 per cent of cases, their families reported having expenses related to the disability which were not reimbursed.

V. ECONOMIC WELL-BEING

Low income

1499. In 1991, 1.2 million children under the age of 18, 18 per cent of all children, lived in a family with income below Statistics Canada's Low Income Cut-offs. 7/ (Table 21) This compared with 14 per cent of the population aged 18 to 64 and 20 per cent of people aged 65 and over.

1500. While children are still somewhat less likely than elderly Canadians to be classified in the low-income population, the incidence of low income among people aged 65 and over declined dramatically during the 1980s, whereas there was little change in the percentage of children living in low-income families in the same period (Chart 7). If these trends continue, children could soon have a higher rate of low income than their elderly counterparts.

Low income by family type

1501. Children in lone-parent families are particularly likely to have low income. In 1991, 62 per cent of lone-parent families which were headed by non-elderly females, and with children under the age of 18, were classified as having low incomes. These families, which made up just 13 per cent of all non-elderly family units with children, accounted for 45 per cent of all non-elderly, low-income families with children (Table 21).

1502. In the same year, roughly one in four (24 per cent) non-elderly, lone-parent families with a male head and 11 per cent of comparable two-parent families with children also had low incomes.

1503. Two-parent families, however, make up the largest share of all non-elderly families with children with low incomes. In 1991, these families, which accounted for 86 per cent of all non-elderly families with children, made up 53 per cent of families with incomes below the Low Income Cut-offs.

Income from transfer payments

1504. Government transfer payments such as social welfare, unemployment insurance, family allowances, child tax credits, and public pensions make up an important share of the income of families with children, especially lone-parent families whose head is female. In 1991, transfer payments made up 33 per cent of the income of all lone-parent families headed by non-elderly females. Transfer payments also made up 12 per cent of the income of comparable male-headed lone-parent families and 8 per cent of that of non-elderly, two-parent families with children.

Child tax credits

1505. The Federal Child Tax Credit programme is specifically designed to redistribute income to families with children. In 1988-89, 2.3 million families, representing 4.7 million children, received this benefit. The programme covered 71 per cent of all children in 1988-89, down from 78 per cent in 1982-83. The total benefits paid in this programme in 1988-89, almost $2 billion, were considerably higher than in previous years once the effects of inflation were accounted for (Table 22).

Income from other sources

1506. Lone-parent families headed by females are more dependent than other families on income from sources such as private pensions, scholarships, and alimony or child support or both. In 1991, 7 per cent of the income of non-elderly, lone-parent families headed by women, about $1,500 per family, was classified as other income. In comparison, other income represented only 3 per cent of the income of similar male-headed, lone-parent families and just 1 per cent of that of non-elderly, two-parent families with children.

Spousal and child support

1507. Spousal and child support is one of the major public policy concerns related to lone-parent families headed by women. Figures from the 1990 General Social Survey indicated, for example, that just 19 per cent of lone-parent families headed by women received financial support from anyone outside their household. In another study, based on 1990 tax data, 8/ approximately 170,000 female lone parents with children under age 18 (about one in three of all comparable women) reported on their tax returns that they had received either spousal or child support payments. These payments, though, made up an important component of the income of those families receiving them. In 1990, recipient families received an average of $4,800 in alimony; this represented 18 per cent of their total income.

Crowding

1508. Few Canadian children live in crowded accommodations. In 1992, just 3 per cent of households with children under 18 years of age had more than one person per room, while 38 per cent of these households averaged two or more rooms per person.

Basic household amenities

1509. The large majority of Canadian households with children have basic household amenities. In 1992, virtually 100 per cent of all households with children had flush toilets and bath facilities and 99 per cent had a telephone and at least one television set. In the same year, 92 per cent owned at least one vehicle. Over half of all households with children had two or more colour television sets or two or more vehicles or two or more of both. A growing share of households with children, 29 per cent in 1992, also had a home computer.

Safety features

1510. In 1992, 93 per cent of households with children under 18 years of age had a smoke detector and 57 per cent had a portable fire extinguisher.

VI. EDUCATION

Enrolment rates

1511. In the 1990-91 academic year, virtually 100 per cent of all children aged 6 to 15 were in school. In the same year enrolment rates were 96 per cent for 16-year-olds and 80 per cent for those aged 17. 9/ Fewer than half of Canadian teenagers, however, are still in school by age 19. In 1990-91, just 45 per cent of 19-year-olds were enrolled in an academic institution.

1512. At the other end of the age spectrum, almost all 5-year-olds (99 per cent in 1990-91) are enrolled in either kindergarten or grade 1, while nearly half of 4-year-old children (49 per cent in 1990-91) are in kindergarten. Both figures were up from 1980-81, when 92 per cent of 5-year-olds and 36 per cent of 4-year-olds were enrolled in these programmes.

Elementary and secondary school enrolment

1513. Because almost all children are enrolled in school, trends in enrolment in elementary 10/ and secondary schools reflect changes in the overall number of children. In the 1990-91 academic year, 5.1 million children were enrolled in these schools. While this figure has increased by over 200,000 since the mid-1980s, it was still three quarters of a million below peak totals recorded in the early 1970s, when Canadian schools were filled by children born during the baby boom (Table 23).

1514. In 1990-91, almost a quarter of a million (240,000) elementary and secondary students, 4.7 per cent of the total, were enrolled in private schools. While the latter figure is double the rate recorded in the early 1970s, it changed little over the course of the 1980s.

Education of registered Indian children

1515. There has been marked improvement in the enrolment rates of registered Indian children in educational facilities. Total enrolment in elementary and secondary schools (including kindergarten) on reserves in 1991 represented 96 per cent of the reserve population aged 4 to 18. This was up from about

80 per cent in the mid-1970s. As a result, by 1991, 54 per cent of registered Indian children living on reserves were staying in school until grades 12 or 13, compared to about 17 per cent in the 1970s and less than 5 per cent in the early 1960s (Table 27).

Student/teacher ratio

1516. The ratio of students to teachers in elementary and secondary schools has fallen in recent years. In 1989-90, there was an average of 15.7 students in these schools for every full-time equivalent teacher, down from 17.2 in 1980-81 (Table 23).

Education expenditures

1517. In 1989-90, total expenditures on elementary and secondary education by all sources amounted to $28.5 billion, or $5,800 per student. This figure was up 8 per cent from 1985-86, once the effects of inflation as represented by changes in the Consumer Price Index were accounted for.

Minority-language education

1518. In 1989-90, 5 per cent of all children in Canadian schools were enrolled in a minority-language programme, that is English in Quebec and French in all other provinces.

1519. In the same period, the majority of students in public schools, 63 per cent in Quebec and 56 per cent in all other provinces in 1990-91, participate in second language programmes. A small percentage of these students are enrolled in immersion programmes. In 1989-90, 7 per cent of the eligible school population was enrolled in French immersion programmes. The remainder studied the second language as one of their regular courses.

Television viewing

1520. Both young children and teenagers are generally watching less television than they did several years ago. In 1991, people aged 12 to 17 spent an average of 18.4 hours per week watching television, down from 20.5 hours in 1985. In the same period, total viewing time declined from 21.3 hours per week to 18.8 hours among children aged 2 to 11 (Table 24).

1521. The majority of children's television viewing time is devoted to drama, comedy, or variety and game shows. In 1991, these programmes accounted for 68 per cent of the viewing time of people aged 12 to 17 and 60 per cent of that of children aged 2 to 11. In contrast, only 20 per cent of the viewing time of children aged 2 to 11 and 14 per cent of that of those aged 12 to 17 was devoted to news/public affairs or instructional television. About 2 per cent of the total viewing time of teenagers was devoted to educational or instructional programming.

VII. CRIME AND JUSTICE

Young people and the police

1522. In 1991, police either charged or informally dealt with almost a quarter of a million young people involved in criminal incidents. That year, young people under the age of 18 made up 25 per cent of all people charged with criminal offences. 11/ This figure was up from 22 per cent in 1987 (Table 25).

1523. In 1991, 54 people under the age of 18 were charged with homicide. These young people accounted for 9 per cent of all people identified as the accused in homicide incidents. In the same year, young people accounted for 21 per cent of all persons charged with sexual assaults. People under the age of 18 made up 18 per cent of all people charged with violent offences in 1991, up from 15 per cent in 1987 and 1988.

1524. Young people account for a greater proportion of those charged with property crimes. In 1991, young persons made up 39 per cent of those charged with these offences, compared with 36 per cent in both 1987 and 1988.

1525. In contrast, the proportion of persons accused of drug crimes accounted for by young people has declined in recent years. In 1991, 7 per cent of those charged with drug offences were under age 18, down from almost 10 per cent in 1987 and 1988. The absolute number of young people either charged with drug offences or dealt with informally in such incidents fell from over 4,000 in 1987 to 3,249 in 1991.

1526. The majority of cases of young people charged with drug offences, including those dealt with informally, have to do with possession of cannabis. In 1991, young people involved in this type of crime made up 57 per cent of all young persons connected with drug-related crimes. Among adults, the comparable figure is 39 per cent.

1527. In 1991, 500 young persons were either charged or informally dealt with in prostitution-related offences. This represented 4 per cent of all persons charged with prostitution offences.

Youth courts

1528. In 1991-92, 116,400 cases were heard in youth courts in Canada. When changes in reporting jurisdictions 12/ are taken into account, this represented increases of 15 per cent from 1990-91 and 35 per cent from 1986-87.

1529. The majority of cases heard by youth courts involve older youth. In 1991-92, 53 per cent of cases involved teenagers aged 16 or over. At the same time, 21 per cent of cases involved 15-year-olds, while the figures were 14 per cent for those aged 14, 7 per cent for 13-year-olds and 3 per cent for 12-year-olds. There were also 39 cases, a tiny fraction of the total, which involved children under the age of 12, who are normally dealt with under provincial child welfare legislation.

1530. The large majority of cases heard in youth court involve males. In 1991-92, 82 per cent of all cases involved boys.

1531. Most cases heard in youth court result in guilty verdicts. In 1991-92, 65 per cent of those accused were found guilty.

1532. The majority of cases heard in youth court with a finding of guilt result in non-custodial dispositions. Probation was the most serious disposition in 42 per cent of all cases with a guilty verdict in 1991-92, while 8 per cent resulted in a fine and 13 per cent in a community service order. Another 4 per cent of guilty cases resulted in an absolute discharge, while the remainder received other dispositions ranging from compensation or restitution to apologies, essays, and counselling programmes. There was little variation in the disposition of these cases between 1986-87 and 1991-92.

1533. Roughly one in three cases heard in youth court where there is a finding of guilt results in some form of custody. In 1991-92, 13 per cent of these cases resulted in orders of secure detention, while another 17 per cent resulted in open custody orders to facilities such as a community residential centre, group home, child-care institution, or wilderness camp.

Young people in custody

1534. An average of 4,417 young people were in custodial institutions each day in 1991-92. This was up 2 per cent from the daily average over the course of 1990-91 and 6 per cent from the figure in 1987-88 (Table 26).

1535. The largest proportion of incarcerated youth are in open custody. In 1991-92, 44 per cent of youth in an institution were in open custody, while 37 per cent were in secure custody. The remaining 19 per cent were in remand or temporary detention awaiting trial.

1536. The majority of youth sent to a correctional institution receive relatively short sentences. In 1991-92, of the over 22,000 cases receiving a custodial disposition, 69 per cent received a sentence of three months or less: 23 per cent were for less than a month, while 46 per cent received a sentence of one to three months. A further 20 per cent were sentenced to four to six months, while 11 per cent were sentenced to more than six months in custody.

1537. The length of sentences received by incarcerated youth has generally declined over the last few years. Excluding Ontario, the proportion of cases receiving a custodial disposition of 3 months or less increased from 55 per cent in 1986-87 to 66 per cent in 1991-92. In contrast, the proportion receiving a custodial disposition of more than six months fell from 19 per cent in 1986-87 to 12 per cent in 1991-92. The trend toward shorter terms applied to both open and secure custody.

Transfers to adult court

1538. Each year, a small number of cases brought before youth court are transferred to adult courts. In 1991-92, 71 such cases were transferred to an adult court.

1539. The majority of cases transferred to an adult court involve older youth. In 1991-92, there were 52 such cases involving youth aged 17 or over and 13 in which the accused was aged 16. There were only 6 cases involving youth aged 14 or 15 transferred to an adult court.

1540. Of the 71 youth court cases transferred to an adult court in 1991-92, 33 involved violent offences; these included 9 murder cases, 8 sexual assaults, and 6 robberies. Another 30 cases were for property offences, while the remainder were for other offences.

Children as victims of homicide

1541. Children are considerably less likely than adults to be victims of homicide. In 1990, there was about 1 murder per 100,000 children among both those under age 12 and those aged 12 to 15. These figures compared to rates of around 3 murders per 100,000 population for people aged 16 to 19 and 20 and over.

1542. Among children, the very young are the most likely to be murdered. Almost one third of all homicide victims under the age of 12 murdered between 1980 and 1989 had not reached their first birthday and over 70 per cent were killed before the age of five.

1543. Child homicide victims are usually related to their assailant; 77 per cent of all children under age 12 murdered between 1980 and 1989 were killed by a relative. Approximately two thirds were killed by a parent: roughly a third each by mothers and fathers, while 10 per cent were killed by other relatives, including step- or foster parents. Of the remaining victims, 13 per cent were killed by an unrelated acquaintance and around one in 10 was killed by a stranger.

Children as victims of other violent crime

1544. Children under age 12 are generally less likely to be victims of violent crimes other than homicide, whereas children aged 12 to 15 are at somewhat greater risk of becoming victims of these crimes than the general population. Of victims of violent crimes reported to Statistics Canada between 1988 and 1991, 13/ 10 per cent were children aged 12 to 15, double the percentage of this group in the population. In contrast, children under age 12 made up 9 per cent of the victims of violent crime, compared to 17 per cent of the total population.

1545. Young people comprise a much larger proportion of victims of sexual assault than they do for other violent offences. Children under age 12 made up 42 per cent of victims of sexual assault reported in the 1988-91 period, while those aged 12 to 15 accounted for 29 per cent. In contrast, children under age 12 made up just 4 per cent of victims of other violent crimes, while the figure for young teenagers was 7 per cent.

1546. Young victims of violent crimes are more likely than older people to be victimized by a relative or acquaintance. Young people are also more likely than older persons to be the victims of other immediate family members, especially parents.

Notes

1/ In the vast majority of cases the religious affiliation of children will be the same as that reported by their parent(s).

2/ Includes cases still active from previous years.

3/ Source: Lero, D.S., M. Shields, H. Goelman, A.R. Pence, and L.M. Brockman, Canadian National Child Care Study: Introductory Report, Statistics Canada, Catalogue 89-526.

4/ Included in this category are children who, during the reference week, were in school all the time the parent worked or studied, as well as children whose non-school hours were spent in transit to and from school, in the hospital, or in sports, music lessons or activities not included as child care.

5/ These data are from the 1991 Health and Activity Limitation Survey which used the World Health Organization's definition of a disability, that is, any restriction or lack (resulting from impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.

6/ Children in institutions were not included in the 1991 Health and Activity Limitation Survey.

7/ Families that spend on average 56.2 per cent or more of their income on food, shelter, and clothing are considered to have low incomes.

8/ Source: Galarneau, Diane, "Alimony and Child Support," in Canadian Social Trends, No. 28, Spring 1993, Statistics Canada, Catalogue 11-008E.

9/ Includes those enrolled in a post-secondary educational institution.

10/ Includes kindergarten.

11/ References to the total number of people charged with criminal offences include adults and youth charged as well as youth dealt with informally.

12/ Data for Ontario were not included in the total prior to 1991-92; as well, only partial data were available for British Columbia in 1991-92.

13/ National data on victimization, comparable to that for homicide, are not currently available in Canada. The data in this section are based on reports of selected violent crimes from 13 police departments between 1988 and 1991. As such, the data are not a representative sample and therefore are not indicative of any national trends.

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